

Amendment No. 377

Assembly Amendment to Assembly Bill No. 388	(BDR 58-790)
Proposed by: Assembly Committee on Growth and Infrastructure	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



ASSEMBLY BILL NO. 388—ASSEMBLYMEN C.H. MILLER, ~~[AND]~~ DURAN, AND THOMAS

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]~~ enable voluntary contributions for infrastructure grants for broadband ~~[services;]~~ deployment; 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;]~~ requiring the Office of Science, Innovation and Technology in the Office of the Governor to establish a program to make infrastructure grants for broadband deployment; requiring the Office to establish a program to encourage deployment of broadband infrastructure in certain communities; 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 , by regulation, 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. that enables a provider of broadband or commercial mobile radio service to participate in a voluntary contribution program for broadband infrastructure that enables a customer to opt in and make voluntary contributions as part of the customer's monthly bill for distribution to the Office of Science, Innovation and Technology in the Office of the Governor to administer a program of infrastructure grants for broadband deployment. Section 3.5 of this bill creates an account within what is commonly called the Nevada Universal Service Fund to facilitate the financial relations between the two programs. Section 4.5 of this bill revises the statutory name of that fund as a result of its expanded purpose. Existing law imposes certain limits on the jurisdiction of the Commission over broadband services. (NRS 704.684) Section 6 of this bill provides that those limits do not prevent the Commission from carrying out its duties concerning the voluntary contribution program for broadband infrastructure created by section 3.

Existing law establishes the Office of Science, Innovation and Technology in the Office of the Governor and prescribes its powers and duties and those of its Director. (NRS 223.600-223.650) Sections 7.2-7.9 of this bill expand those powers and duties. In particular, section 7.6 of this bill requires the Director of the Office to at least biennially: (1) collect and map broadband speed data in each county in this State; (2) prepare a report concerning the availability of broadband service in this State; and (3) submit the report to the Governor and Legislature. Section 7.7 of this bill requires the Office to establish a Broadband Ready Communities Certification program in order to encourage the deployment of broadband infrastructure in underserved communities and prescribes certain required elements of the program. Section 7.8 of this bill requires the Director of the Office to establish and administer a program of infrastructure grants for the development or improvement of broadband services for persons with low income and persons in rural areas of this State. The program is funded using money distributed to the Office by the voluntary contribution program for broadband infrastructure created by section 3.

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~~ to 3.5, inclusive, 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. 2.5. *"Voluntary contribution program for broadband infrastructure" means the program established by the Commission pursuant to section 3 of this act.*

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

~~2. As used in this section:~~

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

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

~~(c) Lifeline has the meaning ascribed to it in NRS 707.450.] that enables a provider of broadband or commercial mobile radio service to participate in a voluntary contribution program for broadband infrastructure that enables a customer of the provider to opt in and make voluntary contributions as part of the customer's monthly bill to fund a program of infrastructure grants for broadband deployment. The regulations must establish, without limitation:~~

~~(a) Procedures to enable a provider of broadband or commercial mobile radio service to elect to participate in the program;~~

~~(b) The manner in which a participating provider must give notice to its customers about the program;~~

~~(c) Procedures to enable a customer of a participating provider to opt in to the program and make contributions to the program;~~

~~(d) The manner in which a participating provider must collect and account for contributions to the program made by participating customers;~~

~~(e) Procedures governing the collection and accounting by the independent administrator selected by the Commission pursuant to NRS 704.040 of the contributions made to the program by participating customers and the use by the independent administrator of money from those contributions to defray costs incurred by the administrator as set forth in section 3.5 of this act; and~~

~~(f) Procedures for the distribution to the Office of Science, Innovation and Technology of money collected pursuant to the voluntary contribution program for broadband infrastructure by the independent administrator.~~

~~2. The Commission has jurisdiction over a provider of broadband or commercial mobile radio service who elects to participate in the voluntary contribution program for broadband infrastructure only for the purposes of:~~

~~(a) Auditing and verifying the collection of contributions by participating customers of the provider; and~~

(b) Adjudicating complaints against the provider, if any, by participating customers concerning the program.

Sec. 3.5. 1. The Account for the Voluntary Contribution Program for Broadband Infrastructure is hereby created in the fund established by the Commission pursuant to NRS 704.040 to maintain the availability of telecommunication or broadband service.

2. The Account must be administered by the independent administrator of the fund selected by the Commission pursuant to NRS 704.040.

3. Any money collected pursuant to the voluntary contribution program for broadband infrastructure must be deposited in the Account.

4. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

5. The money in the Account must only be used:

(a) To defray costs incurred by the independent administrator to administer the Account; and

(b) For distribution to the Account for the Grant Program for Broadband Infrastructure created by section 7.5 of this act.

6. Claims against the Account must be paid as other claims against the State are paid.

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

704.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 704.006 to 704.028, inclusive, ~~and [section] sections 2 and 2.5 of this act~~ have the meanings ascribed to them in those sections.

Sec. 4.5. NRS 704.013 is hereby amended to read as follows:

704.013 “Fund to maintain the availability of ~~[telephone]~~ telecommunication or broadband service” means the fund established by the Commission pursuant to NRS 704.040 to maintain the availability of telephone service.

Sec. 5. ~~[NRS 704.025 is hereby amended to read as follows:~~

~~704.025 “Telecommunication” means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information sent and received, regardless of the facilities, equipment or technology used. The term includes broadband service.]~~
(Deleted by amendment.)

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

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

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

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

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

(c) Include any appropriate gross operating revenue that a public utility derives from providing broadband service when the Commission calculates the gross operating revenue of the public utility for the purposes of levying and collecting the annual 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; ~~for~~

(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. ~~or~~

~~[4. 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.]; or~~

(d) Prevent the Commission from carrying out its duties concerning the voluntary contribution program for broadband infrastructure established by the Commission pursuant to section 3 of this act.

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.] (Deleted by amendment.)~~

Sec. 7.1. Chapter 223 of NRS is hereby amended by adding thereto the provisions set forth as sections 7.2 to 7.7, inclusive, of this act.

Sec. 7.2. As used in NRS 223.600 to 223.650, inclusive, and sections 7.2 to 7.7, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 7.3 and 7.4 of this act have the meanings ascribed to them in those sections.

Sec. 7.3. "Broadband service" has the meaning ascribed to it in section 2 of this act.

Sec. 7.4. "Voluntary contribution program for broadband infrastructure" has the meaning ascribed to it in section 2.5 of this act.

Sec. 7.5. 1. The Account for the Grant Program for Broadband Infrastructure is hereby created in the State General Fund. The Account must be administered by the Director of the Office of Science, Innovation and Technology.

2. Any money transferred from the Account for the Voluntary Program for Broadband Infrastructure created by section 3.5 of this act established pursuant to section 3 of this act must be deposited in the Account.

3. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

4. The money in the Account must only be used to:

(a) Make infrastructure grants for the development or improvement of broadband services for persons with low income and persons in rural areas of this State established by the Director pursuant to subsection 5 of NRS 223.610; and

(b) Defray costs incurred by the Director to establish and administer the program.

5. Claims against the Account must be paid as other claims against the State are paid.

Sec. 7.6. The Director of the Office of Science, Innovation and Technology shall, not less than biennially:

1. Collect and map broadband speed data at the address level in each county of this State;

2. Prepare a report that includes, without limitation:

(a) A summary of the availability of broadband services throughout the State;

(b) Identification of each community that receives service at speeds at least as fast as those necessary to meet the definition of broadband service in section 2 of this act;

(c) Identification of each community that does not receive service or receives service at speeds that are not at least as fast as those necessary to meet the definition of broadband service in section 2 of this act; and

(d) Recommendations for the deployment of broadband infrastructure to underserved communities.

3. Submit the report prepared pursuant to subsection 2 to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, or if the Legislature is not in session, to the Legislative Commission.

Sec. 7.7. 1. The Office of Science, Innovation and Technology shall:

(a) Establish a Broadband Ready Community Certification program in order to encourage the deployment of broadband infrastructure in underserved communities in this State;

(b) Establish forms and procedures for the use of local governments that wish to obtain certification pursuant to this section;

(c) Develop a model ordinance for adoption by a local government which must include, without limitation:

(I) Suggestions for a local government to reduce obstacles to investment in broadband infrastructure;

(2) Suggestions for the implementation of policies that encourage the use of local shared utility trenches, commonly called "one-dig policies";

(3) Requirements that the local government designate a single point of contact within the local government for all matters related to broadband services; and

(4) With respect to applications to the local government for permits and right-of-way uses, require that the local government:

(I) Provide for the electronic submission of such applications;

(II) Provide for expedited review of such applications;

(III) Notify an applicant whether the application is complete within 10 days after submission of the application;

(IV) Approve or deny an application within 60 days after submission of the application;

(V) If the application is denied, notify the applicant of specific corrective actions; and

(VI) Not require a fee for an application that exceeds \$100.

2. The Office of Science, Innovation and Technology shall certify a community as a Broadband Ready Community if the local government:

(a) Submits an application for certification on the form and in the manner prescribed by the Office; and

(b) Adopts the model ordinance developed by the Office pursuant to paragraph (c) of subsection 1.

3. The Office of Science, Innovation and Technology may withdraw a certification as Broadband Ready Community if a local government repeals or modifies the model ordinance or fails to comply with its requirements.

4. The Office of Science, Innovation and Technology shall post on an Internet website maintained by the Office, a list of each community in this State that has been certified as a Broadband Ready Community.

5. As used in this section, "local government" means a county, city or other unit of local government that has the authority to adopt ordinances.

Sec. 7.8. NRS 223.610 is hereby amended to read as follows:

223.610 The Director of the Office of Science, Innovation and Technology shall:

1. Advise the Governor and the Executive Director of the Office of Economic Development on matters relating to science, innovation and technology.

2. Work in coordination with the Office of Economic Development to establish criteria and goals for economic development and diversification in this State in the areas of science, innovation and technology.

3. As directed by the Governor, identify, recommend and carry out policies related to science, innovation and technology.

4. Report periodically to the Executive Director of the Office of Economic Development concerning the administration of the policies and programs of the Office of Science, Innovation and Technology.

5. Coordinate activities in this State relating to the planning, mapping and procurement of broadband service in a competitively neutral and nondiscriminatory manner, which must include, without limitation:

(a) Development of a strategic plan to improve the delivery of broadband services in this State to schools, libraries, providers of health care, transportation facilities, prisons and other community facilities;

(b) Applying for state and federal grants on behalf of eligible entities and managing state matching money that has been appropriated by the Legislature;

(c) Coordinating and processing applications for state and federal money relating to broadband services;

(d) Prioritizing construction projects which affect or involve the expansion or deployment of broadband services in this State;

(e) In consultation with providers of health care from various health care settings, the expansion of telehealth services to reduce health care costs and increase health care quality and access in this State, especially in rural, unserved and underserved areas of this State;

(f) Expansion of the fiber optic infrastructure in this State for the benefit of the public safety radio and communications systems in this State;

(g) Collection and storage of data relating to agreements and contracts entered into by the State for the provision of fiber optic assets in this State; ~~and~~

(h) Administration of the trade policy for fiber optic infrastructure in this State

~~;~~ and

(i) Establishing and administering a program of infrastructure grants for the development or improvement of broadband services for persons with low income and persons in rural areas of this State using money from the Account for the Grant Program for Broadband Infrastructure created by section 7.5 of this act. The Director may adopt regulations to carry out his or duties pursuant to this paragraph.

6. Provide support to the Advisory Council on Science, Technology, Engineering and Mathematics and direct the implementation in this State of plans developed by the Council concerning, without limitation, workforce development, college preparedness and economic development.

7. In carrying out his or her duties pursuant to this section, consult with the Executive Director of the Office of Economic Development and cooperate with the Executive Director in implementing the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053.

8. Administer such grants as are provided by legislative appropriation.

Sec. 7.9. NRS 223.630 is hereby amended to read as follows:

223.630 1. The Account for the Office of Science, Innovation and Technology is hereby created in the State General Fund. The Account must be administered by the Director of the Office of Science, Innovation and Technology.

2. ~~Any~~ Except as otherwise provided in section 7.5 of this act, any money accepted pursuant to NRS 223.620 must be deposited in the Account.

3. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

4. The money in the Account must only be used to carry out the duties of the Director.

5. Claims against the Account must be paid as other claims against the State are paid.

Sec. 7.95. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 8. 1. This ~~act~~ section becomes effective ~~on~~ upon passage and approval.

2. Sections 1 to 7.95, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2022, ~~it~~, for all other purposes.