

ASSEMBLY BILL NO. 388—ASSEMBLYMEN
C.H. MILLER, 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 enable voluntary contributions for infrastructure grants for broadband deployment; establishing certain requirements for the program; 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 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



17 statutory name of that fund as a result of its expanded purpose. Existing law
18 imposes certain limits on the jurisdiction of the Commission over broadband
19 services. (NRS 704.684) **Section 6** of this bill provides that those limits do not
20 prevent the Commission from carrying out its duties concerning the voluntary
21 contribution program for broadband infrastructure created by **section 3**.

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

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

1 **Section 1.** Chapter 704 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 3.5, inclusive, of this
3 act.

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

8 **Sec. 2.5.** *“Voluntary contribution program for broadband*
9 *infrastructure” means the program established by the Commission*
10 *pursuant to section 3 of this act.*

11 **Sec. 3. 1.** *To the extent consistent with federal law, the*
12 *Commission shall establish, by regulation, a program that enables*
13 *a provider of broadband or commercial mobile radio service to*
14 *participate in a voluntary contribution program for broadband*
15 *infrastructure that enables a customer of the provider to opt in*
16 *and make voluntary contributions as part of the customer’s*
17 *monthly bill to fund a program of infrastructure grants for*
18 *broadband deployment. The regulations must establish, without*
19 *limitation:*

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



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

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

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

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

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

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

23 (a) *Auditing and verifying the collection of contributions by*
24 *participating customers of the provider; and*

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

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

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

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

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

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

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

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



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

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

4 704.005 As used in this chapter, unless the context otherwise
5 requires, the words and terms defined in NRS 704.006 to 704.028,
6 inclusive, **and sections 2 and 2.5 of this act** have the meanings
7 ascribed to them in those sections.

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

9 704.013 “Fund to maintain the availability of ~~telephone~~
10 **telecommunication or broadband** service” means the fund
11 established by the Commission pursuant to NRS 704.040 to
12 maintain the availability of telephone service.

13 **Sec. 5.** (Deleted by amendment.)

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

15 704.684 1. Except as otherwise provided in this section, the
16 Commission shall not regulate any broadband service, including
17 imposing any requirements relating to the terms, conditions, rates or
18 availability of broadband service.

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

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

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

29 (c) Include any appropriate gross operating revenue that a public
30 utility derives from providing broadband service when the
31 Commission calculates the gross operating revenue of the public
32 utility for the purposes of levying and collecting the annual
33 assessment in accordance with the provisions of NRS 704.033; or

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

37 3. The provisions of subsection 1 do not:

38 (a) Apply to the Commission in connection with any actions or
39 decisions required or permitted by the Telecommunications Act of
40 1996, Public Law 104-104, 110 Stat. 56-161;

41 (b) Prevent the Commission from exercising its authority
42 pursuant to 47 U.S.C. § 214(e) or § 254(f) relating to the
43 implementation of the federal universal service program, including,
44 without limitation, taking any action within the scope of that



1 authority because of a regulation or order of the Federal
2 Communications Commission; ~~for~~

3 (c) Limit or modify:

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

8 (2) The authority of the Commission to act pursuant to NRS
9 704.6881 and 704.6882 ~~;~~

10 ~~—4.—As used in this section, “broadband service” means any two-~~
11 ~~way service that transmits information at a rate that is generally not~~
12 ~~less than 200 kilobits per second in at least one direction.] ; or~~

13 *(d) Prevent the Commission from carrying out its duties*
14 *concerning the voluntary contribution program for broadband*
15 *infrastructure established by the Commission pursuant to section*
16 *3 of this act.*

17 **Sec. 7.** (Deleted by amendment.)

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

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

26 **Sec. 7.3.** *“Broadband service” has the meaning ascribed to it*
27 *in section 2 of this act.*

28 **Sec. 7.4.** *“Voluntary contribution program for broadband*
29 *infrastructure” has the meaning ascribed to it in section 2.5 of this*
30 *act.*

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

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

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

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

43 *(a) Make infrastructure grants for the development or*
44 *improvement of broadband services for persons with low income*



1 *and persons in rural areas of this State established by the Director*
2 *pursuant to subsection 5 of NRS 223.610; and*

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

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

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

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

11 *2. Prepare a report that includes, without limitation:*

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

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

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

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

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

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

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

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

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

37 *(1) Suggestions for a local government to reduce obstacles*
38 *to investment in broadband infrastructure;*

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

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



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

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

5 (II) *Provide for expedited review of such applications;*

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

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

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

12 (VI) *Not require a fee for an application that exceeds*
13 *\$100.*

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

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

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

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

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

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

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

33 223.610 The Director of the Office of Science, Innovation and
34 Technology shall:

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

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

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

44 4. Report periodically to the Executive Director of the Office
45 of Economic Development concerning the administration of the



1 policies and programs of the Office of Science, Innovation and
2 Technology.

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

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

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

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

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

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

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

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

29 (h) Administration of the trade policy for fiber optic
30 infrastructure in this State ~~;~~ **and**

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

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

43 7. In carrying out his or her duties pursuant to this section,
44 consult with the Executive Director of the Office of Economic
45 Development and cooperate with the Executive Director in



1 implementing the State Plan for Economic Development developed
2 by the Executive Director pursuant to subsection 2 of NRS 231.053.

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

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

6 223.630 1. The Account for the Office of Science, Innovation
7 and Technology is hereby created in the State General Fund. The
8 Account must be administered by the Director of the Office of
9 Science, Innovation and Technology.

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

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

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

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

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

23 **Sec. 8.** 1. This section becomes effective upon passage and
24 approval.

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

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

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

