

# House Bill 2252

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor Theodore R. Kulongoski for Public Utility Commission)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Extends sunset for Residential Service Protection Fund from January 1, 2010, to January 1, 2020.

Removes requirement that income of low income customers of telecommunications public utilities residing in long-term care facilities not exceed 135 percent of federal poverty guidelines in order to receive assistance.

Changes eligibility of person to receive adaptive equipment or assistive telecommunication device from requirement that person be severely hard of hearing or severely speech impaired to requirement that person be hard of hearing or speech impaired, as certified by persons designated by Public Utility Commission.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to telecommunications; amending sections 6, 9, 10, 11, 14 and 16, chapter 290, Oregon Laws  
3 1987; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** Section 16, chapter 290, Oregon Laws 1987, as amended by section 4, chapter 622,  
6 Oregon Laws 1991, section 1, chapter 481, Oregon Laws 1997, and section 1, chapter 408, Oregon  
7 Laws 2001, is amended to read:

8 **Sec. 16.** Chapter 290, Oregon Laws 1987, is repealed January 1, [2010] **2020**.

9 **SECTION 2.** Section 6, chapter 290, Oregon Laws 1987, as amended by section 1, chapter 622,  
10 Oregon Laws 1991, and section 1, chapter 29, Oregon Laws 2007, is amended to read:

11 **Sec. 6.** (1) In carrying out the provisions of section 2, chapter 290, Oregon Laws 1987, the Public  
12 Utility Commission shall establish a plan to provide assistance to low income customers through  
13 differential rates or otherwise. The plan of assistance shall be designed to use, to the maximum extent  
14 possible, the available funding offered by the Federal Communications Commission, and may  
15 provide different levels of assistance to low income customers based upon differences in local exchange  
16 rates. The plan established by the commission shall prescribe the amount of assistance to  
17 be provided and the time and manner of payment.

18 (2) For the purpose of establishing a plan to provide assistance to low income customers under  
19 this section, the commission shall require all public utilities, cooperative corporations and  
20 unincorporated associations providing local exchange telecommunication service to participate in  
21 the plan, except as provided in subsection (3) of this section.

22 (3) In lieu of participation in the commission's plan to assist low income customers, a public  
23 utility, cooperative corporation or unincorporated association providing local exchange telecommu-  
24 nication service may apply to the commission to establish an alternative plan for the purpose of  
25 carrying out the provisions of section 2, chapter 290, Oregon Laws 1987, for its own customers. The  
26 commission shall adopt standards for determining the adequacy of alternative plans.

27 (4) The commission may contract with any governmental agency to assist the commission in the

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 administration of any assistance plan adopted pursuant to this section.

2 (5)(a) As used in sections 2 to 6, chapter 290, Oregon Laws 1987, “low income customer” means  
3 an individual determined by the commission:

4 (A) To be receiving benefits from the federal food stamp program or from another low income  
5 public assistance program for which eligibility requirements limit participation to individuals with  
6 income that does not exceed 135 percent of federal poverty guidelines; or

7 (B) To be a resident of a long term care facility, as defined in ORS 442.015, or a residential care  
8 facility, as defined in ORS 443.400,[:]

9 [(i)] who receives medical assistance under ORS chapter 414[: and]

10 [(ii)] *Who has income that does not exceed 135 percent of federal poverty guidelines*].

11 (b) The commission must be able to verify the continuing participation of a low income customer  
12 in a program described in paragraph (a) of this subsection.

13 **SECTION 3.** Section 9, chapter 290, Oregon Laws 1987, as amended by section 2, chapter 872,  
14 Oregon Laws 1991, section 32, chapter 280, Oregon Laws 1995, section 2, chapter 451, Oregon Laws  
15 1995, section 1, chapter 384, Oregon Laws 1999, section 1, chapter 28, Oregon Laws 2007, and sec-  
16 tion 353, chapter 70, Oregon Laws 2007, is amended to read:

17 **Sec. 9.** As used in sections 9 to 14, chapter 290, Oregon Laws 1987, unless the context requires  
18 otherwise:

19 (1) “Adaptive equipment” means equipment that permits a person with a disability, other than  
20 a person who is hard of hearing or speech impaired, to communicate effectively on the telephone.

21 (2) “Applicant” means a person who applies for an assistive telecommunication device, adaptive  
22 equipment or a signal device.

23 (3) “Assistive telecommunication device” means a device that utilizes a keyboard, acoustic cou-  
24 pler, display screen, Braille display, speakerphone or amplifier to enable people who are deaf, deaf-  
25 blind, [*severely*] hard of hearing or [*severely*] speech impaired to communicate effectively on the  
26 telephone.

27 (4) “Audiologist” means a person who has a master’s or doctoral degree in audiology and a  
28 Certificate of Clinical Competence in audiology from the American Speech-Language-Hearing Asso-  
29 ciation.

30 (5) “Deaf” means a profound hearing loss, as determined by an audiologist or a vocational re-  
31 habilitation counselor of the Department of Human Services, that requires use of an assistive tele-  
32 communication device to communicate effectively on the telephone.

33 (6) “Deaf-blind” means a hearing loss and a visual impairment, as determined by a licensed  
34 physician and by an audiologist or a vocational rehabilitation counselor of the Department of Hu-  
35 man Services, that require use of an assistive telecommunication device to communicate effectively  
36 on the telephone.

37 (7) “Disability” means a physical condition, as determined by a licensed physician or vocational  
38 rehabilitation counselor of the Department of Human Services, other than hearing or speech  
39 impairment that requires use of adaptive equipment to utilize the telephone.

40 **(8) “Hard of hearing” means a hearing loss, as determined by an audiologist or vocational**  
41 **rehabilitation counselor of the Department of Human Services, that requires use of an**  
42 **assistive telecommunication device to communicate effectively on the telephone.**

43 [(8)] **(9)** “Hearing aid specialist” means a person licensed to deal in hearing aids under ORS  
44 chapter 694.

45 [(9)] **(10)** “Physician” means an applicant’s primary care physician or a medical specialist who

1 is able to determine an applicant's disability and to whom the applicant was referred by the primary  
2 care physician.

3 [(10)] (11) "Recipient" means a person who receives adaptive equipment, an assistive telecom-  
4 munication device or a signal device.

5 [(11) "Severely hard of hearing" means a hearing loss, as determined by an audiologist or voca-  
6 tional rehabilitation counselor of the Department of Human Services, that requires use of an assistive  
7 telecommunication device to communicate effectively on the telephone.]

8 [(12) "Severely speech impaired" means a speech disability, as determined by a speech-language  
9 pathologist or vocational rehabilitation counselor of the Department of Human Services, that requires  
10 use of an assistive telecommunication device to communicate effectively on the telephone.]

11 [(13)] (12) "Signal device" means a mechanical device that alerts a person who is deaf, deaf-blind  
12 or [severely] hard of hearing of an incoming telephone call.

13 (13) "Speech impaired" means a speech disability, as determined by a speech-language  
14 pathologist or vocational rehabilitation counselor of the Department of Human Services, that  
15 requires use of an assistive telecommunication device to communicate effectively on the  
16 telephone.

17 (14) "Speech-language pathologist" means a person who has a master's degree or equivalency in  
18 speech-language pathology and a Certificate of Clinical Competence issued by the American  
19 Speech-Language-Hearing Association.

20 (15) "Telecommunications relay center" means a facility authorized by the Public Utility Com-  
21 mission to provide telecommunications relay service.

22 (16) "Telecommunications relay service" means the provision of voice and teletype communi-  
23 cation between users of some assistive telecommunication devices and other parties.

24 **SECTION 4.** Section 10, chapter 290, Oregon Laws 1987, as amended by section 3, chapter 872,  
25 Oregon Laws 1991, section 2, chapter 384, Oregon Laws 1999, and section 354, chapter 70, Oregon  
26 Laws 2007, is amended to read:

27 **Sec. 10.** It is recognized that a large number of people in this state, through no fault of their  
28 own, are unable to utilize telecommunication equipment due to the inability to hear or speak well  
29 enough or due to other disabilities. It is also recognized that present technology is available, but  
30 at significant cost, that would allow these people to utilize telecommunication equipment in their  
31 daily activities. There is, therefore, a need to make available such technology in the form of  
32 assistive telecommunication devices and a telecommunications relay service for people who are deaf,  
33 [severely] hard of hearing or [severely] speech impaired or adaptive equipment for people with disa-  
34 bilities at no additional cost beyond normal telephone service. The provision of assistive telecom-  
35 munication devices and a telecommunications relay service or adaptive equipment would allow those  
36 formerly unable to use telecommunication systems to more fully participate in the activities and  
37 programs offered by government and other community agencies, as well as in their family and social  
38 activities. The assistive telecommunication devices or adaptive equipment would be provided on a  
39 loan basis to each recipient, to be returned if the recipient moves out of the state.

40 **SECTION 5.** Section 11, chapter 290, Oregon Laws 1987, as amended by section 4, chapter 872,  
41 Oregon Laws 1991, section 3, chapter 384, Oregon Laws 1999, and section 355, chapter 70, Oregon  
42 Laws 2007, is amended to read:

43 **Sec. 11.** (1) With the advice of the Telecommunication Devices Access Program Advisory Com-  
44 mittee, the Public Utility Commission shall establish and administer a statewide program to pur-  
45 chase and distribute assistive telecommunication devices to persons who are deaf, [severely] hard

1 of hearing, [*severely*] speech impaired or deaf-blind and establish a dual party relay system making  
 2 telephone service generally available to persons who are deaf, [*severely*] hard of hearing, [*severely*]  
 3 speech impaired or deaf-blind.

4 (2) With the advice of the Telecommunication Devices Access Program Advisory Committee, the  
 5 Public Utility Commission shall establish and administer a statewide program to purchase and dis-  
 6 tribute adaptive equipment to make telephone service generally available to persons with physical  
 7 disabilities.

8 **SECTION 6.** Section 14, chapter 290, Oregon Laws 1987, as amended by section 1, chapter 115,  
 9 Oregon Laws 1989, section 7, chapter 872, Oregon Laws 1991, section 33, chapter 280, Oregon Laws  
 10 1995, section 5, chapter 384, Oregon Laws 1999, section 2, chapter 28, Oregon Laws 2007, and sec-  
 11 tion 357, chapter 70, Oregon Laws 2007, is amended to read:

12 **Sec. 14.** (1)(a) In order to be eligible to receive assistive telecommunication devices or adaptive  
 13 equipment, individuals must be certified as deaf, [*severely*] hard of hearing, [*severely*] speech impaired  
 14 or deaf-blind by a licensed physician, audiologist, hearing aid specialist, speech-language pathologist  
 15 or vocational rehabilitation counselor of the Department of Human Services. Certification implies  
 16 that the individual cannot use the telephone for expressive or receptive communication.

17 (b) No more than one assistive telecommunication device or adaptive equipment device shall be  
 18 provided to a household. However, two assistive telecommunication devices or adaptive equipment  
 19 devices may be provided to a household if more than one eligible person permanently resides in the  
 20 household. Households without any assistive telecommunication devices or adaptive equipment shall  
 21 be given priority over households with one assistive telecommunication device or adaptive equip-  
 22 ment device when such devices are distributed.

23 (c) Sections 9 to 14, chapter 290, Oregon Laws 1987, do not require a telecommunications utility  
 24 to provide an assistive telecommunication device to any person in violation of ORS 646.730.

25 (2)(a) In order to be eligible to receive adaptive equipment, individuals must be certified to have  
 26 the required disability by a person or agency designated by the Public Utility Commission to make  
 27 such certifications. Certification implies that the individual is unable to use the telephone.

28 (b) Sections 9 to 14, chapter 290, Oregon Laws 1987, do not require a telecommunications utility  
 29 to provide adaptive equipment to any person in violation of ORS 646.730.

30 **SECTION 7. This 2009 Act being necessary for the immediate preservation of the public**  
 31 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**  
 32 **on its passage.**

33 \_\_\_\_\_