

## VERMONT ACCESS NETWORK

22 April 2021

**MEMO TO:** Vermont House Ways & Means Committee

**FROM:** Lauren-Glenn Davitian, Executive Director, CCTV on behalf of Vermont Access Network (VAN)

**RE:** Support for “The PEG Study: Financial Viability of Public, Educational and Government Access Television” and Modernizing Vermont’s Telecommunications Tax Structure

My Name is Lauren-Glenn Davitian, I am the Executive Director of CCTV Center for Media & Democracy, based in Burlington, VT.

Today, I am speaking in my capacity as a founder and long-standing member of Vermont Access Network (VAN), a professional society of Vermont’s 25 community media centers. We pool our resources for joint projects, such as the Vermont Media Exchange (VMX) and the recently launched Vermont Community Television Channel. VAN members also actively partner to find new revenue alternatives to replace quickly declining cable funding.

VAN members manage and deliver public, educational and government (PEG) access media services to cabled and non-cabled communities alike, and have been recognized as essential services by the Legislature during the COVID-19 health emergency. (Act 137, Sections 18 and 19).

The PEG Study Itself	<a href="#"><u>Report on the Analysis of the Financial Viability for Public, Educational and Government Access Television</u></a> 2022/WorkGroups/Senate Finance/Public, Educational and Government Access Television
PEG Study PPT Present by author Peter Bluhm	<a href="#"><u>Presentation on the Financial Viability of Public, Educational and Government Access Television</u></a> 2022/WorkGroups/Senate Finance/Public, Educational and Government Access Television

The VAN leadership supports consideration of the findings of the PEG Study. The recommendations outline Vermont's authority to modernize the state's telecommunication tax structure and create a path forward to ensure the future sustainability of PEG access and community based communications and community media in Vermont. The Report describes the authority of the State to rationalize its public benefit structure including PEG, E-911 and Universal Service. The report recommends revenue solutions to address the steady decline of cable franchise fees, the primary source for Vermont's 25 community media centers.

**Background:** The State of Vermont first established public, educational and government (PEG) access cable channels and funding as a public policy objective in April 1984. The Vermont Public Utility Commission (formerly Public Service Board), as the State's telecommunications regulator, has implemented this public policy by ruling consistently in favor of PEG channels, capacity and funding for Vermont's 25 access management organizations for 35 years.

The result: a thriving local media ecosystem that weaves Vermont's rural and urban communities together with 75 full time channels, and 18,000 hours of live public meetings and events, community-based education, and diverse free speech forums each year. Evidence confirms that Vermont's access management organizations have strong local ties, are recognized by their communities, and considered a valuable local asset that is growing in importance as local media coverage shrinks.

Today, there are multiple threats to Vermont's regulatory authority, raising two important questions:

- "How do we preserve the state's ability to manage its rights of way?", and
- "How does Vermont continue to support the public policy objectives of PEG access through administrative, legislative and regulatory authority?"

**History of PEG Study:** VAN was successful in urging the Legislature to first convene a Study Committee (2019) which resulted in the recommendation for a more in depth legal assessment of the state's authority to affect PEG revenue and determine if efficiencies can be found in AMO operations.

**The State of Vermont commissioned the Study in Spring 2020**, through the Agency of Community Development (ACCD) with Berkshire Consulting Group, led by Peter Bluhm, Esq. worked in VT state government, including the Public Utility Commission (formerly PSB) and helped to write the state's universal service fund legislation.

**Story Behind the Curve:** Declining cable revenue affects franchise fees and PEG funding. The trends are now unmistakable. Cable subscribers provide 90-95% of the support for PEG operations. Declining cable uptake threatens this revenue stream and PEG services. The decline will accelerate over the next decade (and sooner than that). More American households subscribed to a streaming video service than to traditional pay TV in 2018 — the first time that video streaming eclipsed the traditional model. In 2020 and 2021, we expect 7.5% year-over-year drop, the biggest such drop ever. The total is down 22.8% from pay TV's peak in 2014.

These penetration rates are playing out in Vermont unevenly. Some rural areas are experiencing an increase in cable connections at this time, primarily because of how internet service is packaged.

The PEG Study affirms that there will be a steady decline in cable revenue that may become even more rapid if we see the kind of cord cutting comparable to the phone industry in the 2000's, or, if cable operators opt to ditch cable to stress the offering of (relatively) unregulated internet services. (For example, Burlington Telecom is actively doing this in Burlington).

**The PEG Study looks into these questions and makes recommendations:**

- **PEG Revenue Forecast** spells out a drop in PEG Revenue over the next 6 years, projected to be between \$360K - \$785K. This projection does not include any "precipitous" drop due to 621 order, massive cord cutting or repackaging of video services to unregulated internet offering (v. cable) (p.

16-24)

- **AMO Efficiency Operations** - Concludes that AMOs are fairly efficient, VAN provides group purchasing options and state wide projects that serve the efficiencies of the members. Makes some recommendations on possible back office savings (p. 30) but does not see a role for the state to require mergers of AMOs if it were to initiate any form of state funding.
- **New Revenue Options** - The PEG Study looks at the current siloed state of telephone, cable, satellite and internet regulation and recommends that the State use its authority to modernize the tax (sales, excise) structure.
  - **The Study looks at a number of revenue options:** sales tax options, gross revenue/ excise tax options, streaming video charges, connection charges, Vermont's Universal Service Fund and Right of Way Fees (e.g., pole attachments or cable mile charges). The Study also includes a look at what it considers to be now obsolete taxes (yielding declining revenue), ie. the Telephone Personal Property Tax and the Alternative Gross Receipt Tax. (p. 42-69).
  - The Study argues for a broadbase look at the telecom related benefits offered by the state, including PEG, E-911, Universal Service Fund and posits a Vermont Telecommunications Benefits Fund.
  - The Study concludes that State authority is not pre-empted by Congress or the FCC. Broad Based taxes (that do not single out cable or internet access) are within their authority. Also the Internet Tax Freedom Act does not completely tie the State's hands and enables the State to now include broadband assessment for E-911 as part of Vermont's Universal Service Fund (if the state chooses).
- **The PEG Study recommends four solutions and a multi-part way forward for the Vermont Legislature to consider:**

- **General Fund Appropriation** (always available to Legislature).
- **Gross revenue tax on cable revenues for PEG capital costs** - 1% sales tax on cable to be used for capital costs. It would offset the capital fee the Vermont operators currently pay (average .05%) and is anticipated to yield about \$400K additional revenue.
- **Streaming video charge** - The study looks at a streaming/ satellite fee that reflects a “reasonable adaption to technological change”. There is no pre-emption on the state's ability to contribute these funds to Vermont’s Universal Service fund. Berkshire suggests that this option requires more analysis “to endure that it meets current constitutional requirements for state tax collections.”
- **Reconceptualize the Vermont Universal Service Fund (VUSF)** to become the Vermont Telecommunications Benefit Fund (VTBF). Raising the rate from 2.40 to 2.62% would yield an additional \$500K for PEG. The report also suggests that Vermont has the authority to assess broadband connections for the support of E-911 functions (which has suffered from revenue declines due to decline in land line use).
- **Right of Way Fees**, specifically a charge on pole attachments (or cable mile charges). The Study estimates 441K poles. At \$10/ pole this could generate \$4.4M and offset the current cable franchise fee payments.
- **Discontinue the levy on Telephone Person Property Tax** (this is declining steadily and becoming obsolete) and the **Alternate Gross Revenue Tax**.
- **And a multi-part option** that recommends the creation of a Vermont Telecom Public Benefits Fund that includes pole attachment charge, modifications to USF to increase E-911 funding, 1% gross revenue

cable tax for PEG capital funding and repeal of the Telephone Personal Property Tax.

The PEG Study revenue alternatives would not replace completely the \$7-8M currently generated by the franchise fee, but would, if enacted, offset the franchise fee in a meaningful way and create a new tax framework that better reflects the realities of the modern telecommunications infrastructure and marketplace.

In light of the upheaval in the cable TV industry, VAN understands that the future will require a more diversified approach to funding. This is an important step in that direction and we are so grateful for the support of the Legislature and the people of Vermont in funding this study.

FREE SPEECH!

Vermont Community Media Act

PEG

public education / government access

\$8M Vermont cable franchise fees  
PEG operations + 5.5% gross revenue capital  
BUDGETS

\$75K \$800K  
160 cable community in VT

REVENUE TRENDS



Viewership 18% watch regularly  
MOSTLY ON INTERNET

Diversification

93% cable revenue + muni \$ + fees for service + fundraising + legislative support  
WILL REQUIRE MANY SOURCES...

PEG STUDY

recommendations  
3. Telecom Benefits Fund: multiple sources #5.

1. PEG AMO's run efficiently.
2. Telecom policy should be MODERNIZED



