

# VERMONT ACCESS NETWORK

16 January 2024

**MEMO TO:** Senator Anne Cummings and Members of Senate Finance Committee

**FROM:** Lauren-Glenn Davitian, Vermont Access Network

**RE:** Testimony in Support of S. 181 Community Media Public Benefit Fund

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My name is Lauren-Glenn Davitian and I am the founding Executive Director of CCTV Center for Media + Democracy, now serving as CCTV's Public Policy Director and working on behalf of Vermont's 24 community media centers (also known as access management organizations "AMOs") which operate as Vermont Access Network ("VAN").

VAN is a statewide nonprofit organization that represents its members in matters of mutual concern, including the effective operation and advancement of Public, Educational and Government (PEG) access services throughout the State. Please see: <https://vermontaccess.net/>

## **Community Media Public Benefit Bill**

Thank you for the opportunity to testify on [S.181/ H.575](#) which [would establish a new Community Media Public Benefit Fund](#), funded by communications service providers in the State, to ensure equitable and sustainable financial support for local public, educational, and government (PEG) access organizations in Vermont.

We have a vested interest in this bill dating to 1984 when CCTV negotiated the first public, educational and government access (PEG) channels and operations/ capital funding with Cox Cable as part of a rate case before the Vermont Public Service Board.

## **Legal Foundations**

As of the passage of the 1984 Cable Act (Title 47 U.S.C. § 521 et seq.), the Vermont Public Utility Commission (PUC) was designated as the state's cable "franchising authority" able to specify the conditions for cable operators to obtain an 11 year

Certificate of Public Good and do business in Vermont.

These CPG conditions include PEG access channels, capacity and funding – public benefits provided in exchange for commercial use of the public rights of way.

Over the past 40 years, communities across the state have built an extensive network of PEG channels and community media services based on concrete demonstrations of “community needs and interests” during multiple PUC regulatory proceedings.

### **Essential Service: Building Community + Promoting Democracy**

Today, Vermont’s 24 community media centers (also referred to in Rule 8.000 as access management organizations or AMOs) have a complex mission that makes them, as local media production centers, a combination of town hall, local newspaper, town library, public school, and the Speaker’s Corner.

Vermont’s AMOs were recognized by the State of Vermont as an “essential service” during the COVID pandemic because of the role they played in getting public meetings online and distributing emergency information. In addition, we:

- Operate 75+ PEG channels, employ nearly 100 people in dozens of communities across Vermont;
- Produce more than 18,000 hours of staff and volunteer generated TV and radio each year (including live open government public meetings, election forums and results, education access, community events, sports, cultural exchange, media education and the programs on topics from race to religion);
- Maintain extensive video archives that play an important role in the preservation of local identity; and,
- Provide unique non-commercial and community controlled resources—unlike commercial TV channels or today’s social media platforms (e.g., YouTube, Facebook, TikTok).

## VAN Seeks a “Level Playing Field”

Each AMO is run locally by a board of directors and mainly financed by mandated payments from cable companies serving the same “service territory”. Vermont’s cable subscriber funding amounts to roughly \$8 million in support of community media services statewide. As consumers increasingly cancel their cable subscriptions in favor of internet-based entertainment and news sources, funding for community media is declining.

The cable TV subscriber trends are clear. Forbes Magazine recently reported:

*According to Nielsen, cable penetration reached its high-water mark in May 2011 when 90.7% of all TV households (105.1 million) had subscribed to cable television. Fast forward to September 2023, Nielsen counts 75.3 million multi-channel households accounting for 60.8% of all TV homes.*

*Furthermore, PwC projects that by 2027, the number of U.S households with a cable subscription will fall below 50 million with household penetration at only 38%. Over the same time frame, ad supported streaming video (AVOD) can expect significant revenue growth.<sup>1</sup>*

More specifically, at CCTV’s government access operation serving a large part of Chittenden County we’ve seen a 19% decline in Comcast’s quarterly revenue since 2016:

Quarter Ending	Comcast Gross Revenue	Decline
9/30/16	\$6,758,532.48	
9/30/23	\$5,475,244.00	19%

This steady decline of cable revenue has been a long standing concern, because it is such an integral part of PEG’s funding structure. And more importantly, because there is currently no corollary public benefit required of internet providers.

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<sup>1</sup> “With Cord-Cutting, Cable TV Industry Is Facing Financial Challenges”, Brad Adgate, 10 October 2023. <https://www.forbes.com/sites/bradadgate/2023/10/10/with-cord-cutting-cable-tv-industry-is-facing-financial-challenges/?sh=357e2d09756c>

Despite the fact that the same fiber optic cables carry cable AND internet signals along the public rights of way (sometimes owned by the same company) the state of Vermont is largely prevented by Congress from requiring public benefits from internet providers.

But the [“PEG Study”](#)<sup>2</sup>, commissioned by the Vermont Legislature in 2020 outlined legal ways for the Legislature to modernize its telecommunications tax structure, including the reform of funding for AMOs. This is the bill you are considering, S. 181 and H. 575 Community Media Public Benefit Fund.

The Community Media Public Benefit Fund recognizes that Vermont AMOs services extend across Vermont and are no longer confined to cable service territories. The bill will provide a reliable source of funding as cable revenue declines across Vermont.

### **Contributors to the Fund**

[S.181](#) / [H.575](#) would impose a charge on all companies that deliver commercial voice, cable, internet, and wireless services to Vermont homes and businesses. The charge is a fee on these companies’ physical attachments to utility poles installed throughout the State. This includes poles in the public rights-of-way and on private property, but does not include wireless macro towers. Vermont’s newly created communications union districts (or CUDs) would be exempt.

Communications service providers would pay this fee to the Vermont Department of Taxes by July 1st of each year based on every pole attachment they attach to on April 1st of that year.

The PEG Study estimated 440,000 pole attachments (although we think this requires further verification). The proposed rate in S. 181 is \$15/ pole which could yield as much as \$6.6 million to offset the declining cable revenue.

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<sup>2</sup> “Analysis of the Financial Viability for Public, Educational and Government Access Television in Vermont”, per the requirements of Act 137, Section 19 of the 2020 Session of the Vermont General Assembly. Act 137 required the Agency to, “retain a consultant to review the current business model for Vermont Public, Educational, and Governmental Access (PEG) television channels and provide recommendations concerning how to ensure the future financial stability and viability of PEG channels.”

<https://legislature.vermont.gov/assets/Legislative-Reports/Report-2021-02-07.docx.pdf>

Cable companies would be permitted to deduct from the pole attachment charge amounts paid to AMO under the current franchise fee funding mechanism.

### **Collection + Distribution of the Fund**

The funds would be collected by the Vermont Department of Taxes and deposited into a special fund known as the Community Media Public Benefit Fund. Each year, the money from the Fund would be appropriated to the Vermont Secretary of State, which would provide an annual grant for the operational costs of AMOs. The grants would be administered by Vermont Access Network (“VAN”). The criteria for the distribution of the funds will be based on the relative decline in cable revenue and the budget requirements of the AMOs.

### **Other States**

Because Congress has not acted to update the public benefit structure, and the cable regulatory framework differs across the US, different states are forging their own solution.

There are two active pieces of legislation. In New York, where cable is regulated on the local level and streaming services are not yet taxed, our colleagues are proposing a streaming service tax that would be shared by the localities, state and community media centers. The Massachusetts model is similar, although they would be adding to an existing streaming service tax.

For more information please contact Lauren-Glenn Davitian, [davitian@cctv.org](mailto:davitian@cctv.org), Public Policy Director, CCTV Center for Media + Democracy, Burlington VT.