

HOUSE BUSINESS AND INDUSTRY COMMITTEE

January 28, 1981

SUMMARIES FOR

HOUSE BILL 266 -

Introduced by Rep. Gould and others amends the liquor laws to allow 5% discount on case lot purchases to apply to various brands as well as unbroken cases. Holders of all-beverage licenses will be entitled to the 5% discount for any size or quantity purchase.

HOUSE BILL 267 -

Introduced by Rep. Gould and others changes the closing time for licensed retail liquor establishments from 2 a.m. to 3 a.m. during periods when daylight saving time is being observed.

HOUSE BILL 310 -

Introduced by Rep. Menahan and others gives the Public Service Commission power to regulate and supervise community antenna television (cable TV) systems.

HOUSE BUSINESS AND INDUSTRY COMMITTEE

Rep. William Ray Jensen, Vice Chairman, called this meeting to order at 8:00 a.m., in Room 129, January 28, 1981, Capitol Building, Helena. All members of the committee were present. Bills to be heard were HBs 266, 267, 310.

HOUSE BILL 310 -

REP. WILLIAM MENAHAN, House District #90, Deer Lodge County, chief sponsor, said HB 310 would subject community cable TV to the supervision, regulation, and control of the PSC. Cable TVs are most profitable. The consumer has nothing to say. They use all the advantages of a regulated company such as the phone company with a guaranteed profit.

Just any kind of a change being made to a house having a cable TV system allows the company to charge \$19.95, and there is no adjustment if you leave sooner. They can detect when you are stealing cable TV from them. In a subdivision they agreed to put all wires in underground, which they did, but a number of things are wrong. The cable companies have not been fair to them. Should be able to have or work through the FEC and the people should have some choice of program selection. As it is, you take what they give you. At times the company buys the cheapest programs available and charges you the highest price and not what you want, while another community won't have that channel.

JON CHACOPULAS, Helena, bought a house a year ago. He feels he was ripped off by the cable TV company. When he moved into the new house, he called the cable company and told them he wanted the installation changed from his old home to the new one. He agreed to pay installation charge. He moved into the new house and moved the TV in and they had never disconnected it, and it was still working. He told them he would like to continue to avail himself of their service and they wouldn't need to disconnect and reconnect. The reasons for charging the set amount was because of paperwork involved to change the street address.

They said they come out and test all the lines and make sure that everything is working properly, and they still have to charge you for the installation charge. He didn't want to pay for the service if it wasn't performed. He asked the Better Business Bureau, and Mr. Disney told him they had no control over the cable TV, there was nothing they could do. He was shuttled around from office to office. No regulatory agency that had any control over the regulation of TV. The manager of the local station went over this with him. He could get the names of the owners of the TV company, but complaints would all come back to the local station person. His concern was that he had to pay \$20 for a service he did not receive. They never did do what they outlined they would do. He still got ripped off for the \$20. He was told, and to his knowledge today, there is no agency in the state where you can take your complaints to.

REP. GLENN A. ROUSH, House District #13, Glacier County, supports HB 310. Several systems are owned by Teleprompter which is a big, big company. According to figures supplied by Montana TV Association, we have 1400 cable home subscribers, 950 in Shelby. This is rated at a 100% service in the community of homes. These two cable systems are operating at 100% of capacity. The quality of the picture from the reflector is pretty poor. Teleprompter charges \$24.95 and a hookup charge of \$19.95, and each additional outlet costs \$10 flat fee. A monthly charge for each outlet jack in your house costs \$1.50 per month whether you are using that or not.

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The monthly charge provides 8 channels, one being only a weather channel. His charge is \$9.95 per month. Home box office which is voluntary is \$10 per month. There are 7 visual channels of TV to watch. The company pays the REA per month per year \$3.25, Shelby \$4.30. This was just upgraded from \$2.50. As with any unregulated company, CATV tends to maximize profits with a minimum of service.

In his systems in Cut Bank and Shelby, there are 7 channels coming in - two Canadian stations, and 2 Great Falls stations are picked up and the TV company is not paying anything for that TV, just approximately 10¢ per month per customer to provide that service. Teleprompter does have to pay for the Spokane stations approximately \$2,000 per month. They sell advertising on CATV. Somebody is being ripped off.

They have had a cable system since 1950 in his area, and the installation charge was \$10 and there were 1300 subscribers. See EXHIBIT A showing a list of all cable TV outlets in Montana, and they all have to buy from Teleprompter and there are variances in charges.

He believes the cable companies are trying to satisfy their customers. He doesn't know how to protest the situation in his area without regulation. This bill will correct some of these inequities.

BILL OPITZ, Executive Director for the Public Service Commission, comes as a resource person to the committee to answer questions about cable TV. It has a \$50,000 impact on his agency. Federal communications systems allows a pole attachment charge. Cable TV people pay \$3.50, FCC \$1.41 per pole per year. The cables are paying more than the FCC has set. Otherwise there is no regulation on cable companies. They get occasional complaints and they do contact Al Disney and he has been responsive to their needs. Nevada has one station with regulations.

OPPONENTS -

AL DOUGHERTY, attorney for CATV Association, Helena, opposes HB 310. See his testimony EXHIBIT B. He asked for a Do Not Pass recommendation from the committee.

MCLEAN CLARK, President of the Montana Cable Television Association, and owner-operator of the Big Timber Cable TV, opposes HB 310. See testimony on EXHIBIT C.

JOHN BRAUNBECK, Energy Services Company, said there is a direct parallel between the petroleum and proposed regulatory structure on cable TV, the extreme mess that these regulations have caused. They believe industry can and in fact does regulate itself if it gets the opportunity. Energy Services Co. go on record as opposing HB 310. It should be terminated.

See the Visitors' Register for many other opponents.

QUESTIONS -

Rep. Andreason - Are hookup charges charged individuals who already have a functioning system in their house without any actual installation procedures

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being done? Mr. Dougherty - In some cases that could be true. There is a hookup charge made for computer charges for changing. He is involved in a small TV company in Chinook, Choteau. Usually a charge is made for hookup. Rep. Andreason - Not a monopoly? Mr. Dougherty - There are no competing cable systems in the state of Montana. Do have competition from theaters, sporting events, and other sports. It is not a monopoly.

Rep. Robbins - Why isn't there any competition? Mr. Dougherty - There is competition from other sports. It costs so much to build a system and so expensive to seek out subscribers from the other system. It requires quite a bit of money up front. It costs about \$8-10,000 per mile for wire, additional thousands for equipment. Rep. Andreason - How many suppliers do you have? Is there competition at the top for program content? Mr. Dougherty - It prohibits you from carrying more than one independent station. If there are suppliers from the satellite, various other programs can be provided.

Rep. Ellerd - There are approximately 52 systems in the state. A person in that area doesn't have CATV, would he still have them available to him by antenna? Mr. Dougherty - There is no community that he knows of that is without TV signals going into it. There are 269 translators going into Montana. Anybody using CATV uses it by their own efforts.

Rep. Ellison - A cable system has to apply to the FCC for a license? Mr. Dougherty - They have to register with FCC and make certain annual reports and obey the regulations. Rep. Ellison - You do have to carry local stations. Libby has either five or six translators. There is a cable system in competition with a line going over Havre. You can buy earth receiving stations and receive from satellites themselves.

Rep. Vincent - In Billings there is one cable TV operation. Someone wanting cable TV would have to deal with that one company. If a very large national or international corporation decides they want to come into Billings and establish a tremendous system, two years from now will you be back in here and ask for protection? Mr. Dougherty - We will be in here fighting to remain free of regulation. Regulations are complicated, costly and onerous. Rep. Vincent - If a viable competitor comes in, you would be willing to compete on that basis without regulation? You could probably receive satellite with a small disc on your roof.

Rep. Wallin - If your cable system does not work and it is after hours, and you miss your favorite program, no adjustment is made on your bill? Mr. Dougherty - The basic figure of \$10 per month is charged, and if the service were discontinued, the small amount of refund allowed would not be worth the trouble.

Rep. Kitselman - Thought \$1.50 a month for an extra jack was unfair. What is your capital outlay for an additional hookup? Mr. Clark - Here they tap on the line in the alley to the house and to the outlet. He owns his system and does the work. Helena has to send a workman out at union wages, and it costs from \$25-40. That's in your capital outlay of that drop because you have the rest of your plant involved in servicing that drop. You run one drop in and you want another one someplace, you have your labor costs. The difficult part is what portion of the plant goes to each one of those drops. In 1956-57, we charged \$1 for an extra drop, and in 1981 it is \$1.50 for an extra drop and \$10 for the service.

Rep. Metcalf - Is it true that telephone companies in this state are

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regulated by the PSC? Mr. Opitz - Yes. REAs co-ops are not. That particular charge has been divided into five parts. The fee for coming to the house is regulated by the PSC. Rep. Metcalf - Would the PSC be able to stop that fee from being charged? Mr. Opitz - The PSC could do volumetric or pole cost. Rep. Metcalf - Highly unlikely that that would happen. If they were regulated, would you be able to stop these kinds of fees from being charged? Mr. Opitz - They would find out what that cost is and regulate it accordingly.

Rep. Fabrega - The cost of regulating would be about \$50,000. It was hard to figure out how many people you would be regulating. In determining cost, do you have to maintain a certain supply demand? If subscribers drop what is the cost to the jack? Mr. Opitz - If the system is expanding, they would try to monitor what the cost is. The demand for the service would have a great impact on the cost. Rep. Fabrega - Are there many houses that don't subscribe to electricity, gas, or telephone? Opitz - If a city would grow, there is an enlargement of a base rate or base exchange area the more you would have to pay for that phone if further away. The rates gets cheaper as the vicinity surrounding the base area gets cheaper.

Rep. Harper asked about charges, and Mr. Dougherty objected, but Rep. Harper disagreed - It is a question of whether you are a monopoly. The reason this bill is in front of us is because some people are using the word 'ripoff' There should be a reason for the lesser charge for TV in Baker where it is \$10.

RAY ROHRER, Teleprompter, Kalispell, said it costs \$11-14,000 to put a man out on a job; it costs about \$25 to do the job. Some people elect to not put all costs where they are. Those costs are coming out of subscriber rates. If we elect to charge the connect charge for the people who disconnect and reconnect again then we are charging nothing for the installation or connect charges, you put it in the rate base.

Rep. Harper - Installation and reconnect charge, if one is higher it should be balanced in the other column.

Rep. Fabrega - Cannot justify the cost. The problem is whether to regulate the cost.

Rep. Menahan closed saying if regulation here isn't the answer, there is a problem. There should be some type of business regulation. They are dealing with 14,000 hookups, 78,000 people in this area. There are no regulations - no place to go with a complaint. Should check into Teleprompter and Telex. They are making a profit. They say it is not a monopoly. CATV doesn't give you a choice - they say they are regulated - they buy the cheapest. They keep referring to the telephone company. They ought to be regulated. How many people do you reach reach with TV and it is being stifled. Should put them under some type of business regulation so that someone has recourse. It is a problem and he hoped it would get some consideration.

REP. FABREGA TOOK OVER AS CHAIRMAN.

HOUSE BILL 266 -

REP. BUDD GOULD, House District #98, Missoula, chief sponsor, said HB 266 would allow a 5% discount on case lots of liquor to apply to various brands as well as unbroken cases. Holders of all-beverage licenses could receive a 5% discount on any size purchase of liquor from state liquor stores.

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People who buy all of their liquor in case lots get a 5% discount. Would you be opposed to having it changed so that people who bought a case of mixed brands would get a discount? There are many, many items that are slow sellers and they would like to buy 3 or 4 at a time, but buy a case and get a discount. This would generate sales.

CEDRIC HAYMES, Missoula Tavern Association, Missoula, owns My Place Bar in Missoula. He is also representing other Missoula bars. He feels this bill will help small bars. Most bars buy in case lots, but the bar owners will stock the more expensive slow moving items more readily. The slower movers are the most expensive ones. When buying in broken case lots, there are two separate pieces of work done. Everything in a case lot is put on one piece of paper, broken lots are on a separate piece of paper now. The only thing the operator can do is put it in another case. There is a problem of breakage of partial cases. Bar owners in Missoula think the discount should be given to the public as well as to the tavern owners.

GARY LANGLEY, Director of governmental affairs in Montana and for the NFIB which has 5,000 in Montana, support HB 266. Tavern owners must buy full cases of liquor. This would allow them to receive 1 or 25 bottles if the owner elected to get his discount.

BRUCE FOWLER, Montana Tavern Association, Missoula County Tavern Association, supports HB 266 and asked the committee to support it. He feels it is good for both the public and the tavern association.

BOB DURKEE, representing the Montana Tavern Association, supports HB 266. At the present time there is only one other state that does not license a discount, and in most cases it is included in all types of purchases - broken and unbroken. The discount in other states varies up to 16%. He has attempted to achieve this before. Malmstrom Airforce Base has enjoyed a 10% discount since the inception of the base. So there is a precedent in Montana as to that extent of a discount. He feels it justified that the licensee should be allowed a discount.

OPPONENTS: None

QUESTIONS -

Rep. Pavlovich - Do they get a discount greater than 5%? Mr. Leon Messerly, Director of the Liquor Division of the Department of Revenue - Yes. Since the federal regulations do not allow any state costs. Indian reservations also come under this. Malmstrom does not pay because they get their liquor directly from the vendor. They buy from the state, sell it at the state post price and they keep a certain amount for operating cost. The division collects a state tax of 26%, 6% handling fee, and the other 34% of the state markup they get to keep. They pay the DoR directly at the time of purchase, but sell it at statewide purchase price. Otherwise they could eliminate paying any kind of state tax.

Rep. Robbins - Do they pay the federal tax on that? Mr. Messerly - They will guarantee paying it and we are buying it from the supplier. Rep. Robbins - This will help the agency stores because it will increase volume a little.

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Rep. O'Hara - Why has it taken this this long to be done? Mr. Durkee - The industry is a peculiar industry and it has been treated that way. The licensees provide 60% of the purchasing of the state and have never been treated other than as a poor cousin. He has tried for 15 years to gain a slight discount and succeeded on unbroken cases, but the biggest problem with unbroken cases is that the law requires a seal and a case has to be broken when a case could have a single seal on the case itself. It would reduce the handling costs of the cases of liquor.

Rep. Ellerd - Does this mean that a tavern owner can go in and buy one bottle and I can't? Mr. Messerly - Yes. It is discriminating. Rep. Ellerd - Would the tavern association endorse passing that on to the consumer? Mr. Durkee - No.

Rep. Metcalf - A consumer can go in now and buy an unbroken case and get a discount.

Rep. Fabrega - The way the bill reads, any person purchasing liquor in case lots, broken case lots could get a discount. Rep. Gould - A tavern owner won't go in and buy unbroken cases. Mr. Messerly - Stores get a request from a tavern owner for a case, so the person has to buy what is on hand and has to pay the full price without any discount.

Rep. Harper - If this 5% discount is given because it was less hassle to pick up a case, it wouldn't take any longer to buy a case than over the cost of buying a bottle. It allows the cases to be broken and gives a discount to the licensee. He assumes the extra time to pick up a bottle will cause quite a hassle. What will it do to the lines at Christmas time? Mr. Messerly - Can't staff their stores for Christmas rush. He doesn't think this would add to the lines. It will mean some operational changes in the check out counters.

Rep. Harper - Every citizen will probably buy different kinds of liquor in order to fill up his case lot.

Mr. Messerly - Would print some posters if you want the discount. This is the reason for the amendment that Rep. Gould has introduced for them. See EXHIBIT D. They should be aware of that by the time they get to the check out counter. He thought some of the impact at Christmas time might be relieved.

Rep. Kitselman - Is this for distilled spirits only? Mr. Messerly - The current discount is only on liquor. Tables wines do not have any discounts.

Rep. Ellerd - Do you have a record of whether there was an increase of purchase in case lots by a private citizen? Do you keep a record of that? Mr. Messerly - They didn't keep a record before the discount was allowed. The total amount of dollars allowed for discounts to private citizens each year could be furnished.

Rep. Vincent - What are the basic justifications for any discount at all? Mr. Messerly - It was to decrease the handling and to give people a small break on the cost. It has not done that because of the stamp required to be put on. Rep. Vincent - Do you think that is reflected in the charge at any establishment?

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Rep. Schultz - This is a negative effect on revenue. If the amendment is allowed, he wanted a definition of what constitutes a case.

Rep. Ellerd - Wanted to make an amendment in the bill to allow any eligible citizen to receive the discount. Mr. Durkee - This is opening it up pretty broad. Rep. Ellerd - Thinks he is entitled to the 5% discount. Rep. Gould - Would be much better off to take out the language as far as the amendment and say it must be a full case. Many times a tavern will order a case and the store has only 6-7 bottles - the tavern owner doesn't get the discount as he would for a full case. It would be better to have it so that it is on 12 fifths or a full case lot.

Rep. Fabrega - 16 1/2% is that in quota states. All of the discounts reflect the quota states. 5% is given in full cases right now and it doesn't save any labor. Mr. Messerly - Need to do away with the stamps. Malmstrom buys it 34% less because of their federal status.

Rep. Gould closed saying he believes that where people would buy 6-7-8 at a time, they would be more apt to buy a dozen at one time to get the 5% discount. Hoped the bill is passed.

HOUSE BILL 267 -

REP. BUDD GOULD, House District #98, Missoula, chief sponsor, said HB 267 would allow licensed retail liquor establishments to stay open to 3 a.m. during daylight savings time. This is controlled by citizens themselves as far as hours are concerned. People don't go out to a night spot for entertainment until 9-10 at night and then the establishments have a problem of employment as far as getting additional bar attendants and putting out several hundred dollars an evening. During the hours of daylight savings time, it would be an advantage to their operation.

BRUCE FOWLER, Missoula, owns the Benchmark Night Club and has entertainment there. Has been there 7 years and has a 20-year SBA loan so he is entrenched in the operation. He spends \$100-125,000 a year to bring in bands. The 3 a.m. bill would increase enough hours so that people would be employed for an additional hour. This would not be mandatory, but would be an option to stay open. This would increase sales of liquors and wines. Daylight savings time entertainment starts about 9-9:30, and in order to comply with state laws, they have to start at 9 to get 5 hours of entertainment time. People are not out and about until 10:30. There has been a demand to try and keep the establishment open later. This would allow them to operate during the heavier traffic time. There would be no particular/scheduling problems with the law enforcement personnel who work four ten-hour days. Asked support for HB 267.

CEDRIC HAYMES, Missoula, said he has to be busy to be able to pay a cocktail waitress. It is hard to get them to come in and work for three hours. People don't want to leave at 2 a.m., they want to stay later. There are two types of bar customers. The one that stops after work and has a couple of beers, and the others who go home and come back. Summer really puts a hardship on his business to have to close at 2 a.m.

GARY LANGLEY, NFIB, Helena, supports HB 267.

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JACK WILLIAMS, Montana Chiefs of Police, Helena, opposes HB 267 because it is hard to keep track of. Needs more policing for hours. Family fights after bar closing. Disturbances at cafes at later hours. See Witness Sheet.

QUESTIONS: None

Rep. Gould closed saying he recommends daylight savings time or no daylight savings time be for 12 months of the year. He doesn't think HB 267 would cause a great deal of problems. He thinks those who are dancing are wearing that booze off.

EXECUTIVE SESSION -

REP. JENSEN WAS APPOINTED CHAIRMAN.

Rep. Fabrega moved HOUSE BILL 183 DO PASS AS AMENDED. The intent is to provide more customer convenience and not to let those detached facilities become a competitive factor to smaller independent banks that could be economically harmed. After the following discussion motion carried 12-6-1 Roll Call.

Rep. Fabrega moved amendments (See standing committee report) be adopted. Motion carried.

Rep. Ellerd - Who would be making the decision? Mr. Alke - The department has a director who is acting until an overhaul of the Department of Commerce. He didn't know at what level the financial situation would be made. The proposed consolidation demotes to bureau level. Under the present system, the director of the department is responsible for making decisions. Rep. Ellerd - Wants more than one person to make the decisions. Rep. Andreason - The amendment says the department, whatever system they have in operation now. Didn't think they want to change the operation of the department.

Rep. Jacobsen - This wouldn't come under the same banking board as acts on new facilities? Mr. Alke - The banking board's decision is for chartering new banks. They approve mergers, consolidations or changing locations.

Rep. Vincent - Concerned about that the word 'or', and would like to see the word 'and' inserted in place of 'or'.

Rep. Harper - Wondered if the amendment as a whole does anything. The banks are reviewed once a year and so their state of adequacy is current. If an adverse effect on existing financial institutions, if that competition can be shown to take any money away from the other, it could be denied.

Rep. Fabrega - Have to make the distinction between profitability and solvency. Mr. Alke - This could become a restriction on state chartered banks, but not on national banks over which the department has no enforceability.

Rep. Meyer - Could you define banking services? Mr. Alke - The bill itself identifies services normally conducted at a teller station which do not require decisions by officers.

Mr. Scully, attorney, said there are three amendments that would apply for national banks in b(i), but the state could look at the needs of the

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the locality. Mr. McKittrick spoke for the First Bank System. The language here is in the Minnesota law. It suggests showing some restriction on only detached facilities and not branch banking. Mr. Alke - Doesn't feel the amendment is necessary.

Rep. Fabrega - You could not enforce as to national banks. (i) already applies that practice for detached facilities for state banks. It asks a bank to increase its capital to have a detached facility. Have quite a range of administrative tools to accompany what this is attempting to do.

Rep. Schultz - Why couldn't these be included in some kind of a statement of intent? Rep. Fabrega - A statement of intent is when rules will be promulgated. (i) is already being applied under state law. Don't have the information necessary from national banks. Don't have information under 3. as to how that national bank would be affected. Present law does not require that notice be given when a bank applies for a detached facility. No hearing is conducted. Are having difficulty in how to administer.

Mr. McKittrick - Is there a need for this amendment? Are not administering the detached facilities under the law now. In Minnesota the bank would have a certificate from the comptroller for that aspect. If you don't feel this is needed and Mr. Alke has the power to do this already it may not be necessary.

Mr. Scully - The need for (i) is only when you make the application to the department. You come in and show the application, but Mr. Alke doesn't have the authority to out and get the showing. (i) should be taken out because Mr. Alke cannot make a judgment on this. Applicant would make the showing to the department that they would meet the other requirements. Administrative proceedings would take care of notice, but the jungle drum gets the fact that there has been a filing to those interested.

Mr. Harold Pitts - There is a competitive factor between national and state banks. (i) applies to state banks as written by asset quality. If a comptroller of currency would issue a statement back to the department, this could remain for state chartered banks because they could do it.

Rep. Wallin - One of the rules on the amount banks can have invested in a detached facility is about 50% of capital. Is that a federal law? Probably there is a limit on what can be invested on fixtures on a detached facility. Mr. Alke - Banks have been asked to increase their capital to afford detached facilities. National charter and state charter have nothing to do with the size of the bank. They could convert their charter in a matter of 30 days if they want to. The department does have some rule-making authority and because of that, you could provide a statement of intent on how the nationally chartered banks could meet that by submitting a certificate from the comptroller that it was in a good sound financial situation and had adequacy of capital. Mr. Alke - Would hesitate to try to pass this simply from information the bank furnishes. Might be asking the department to make a decision on fallacious information. It would be a difficult factor to administer.

Rep. Kitselman moved that (i) be deleted from the amendment, and that subsequent subsections be renumbered. Motion carried unanimously.

Rep. Ellerd - Suggested having a subcommittee take this under consideration.

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Rep. Harper - (ii) contradicts the policy of the bill.

Rep. Ellerd - If the DCA has organizational changes, will that affect the bill? Mr. Alke - You are worried about who makes the decision. Would have to determine who is the policy making decision maker might be. Under the executive department the department director has the authority to make that decision. The director already has the authority to delegate that authority in the department. He could delegate it to the division of business regulation or the finance bureau. He doesn't think the Legislature should anticipate what is going to happen to the reorganization.

Rep. Kitselman moved to delete "or" and to insert "and". Rep. Vincent moved that (ii) be amended by striking the words "or increase the availability".

Rep. Harper moved for all motions pending that (ii) be stricken in its entirety. Motion carried 17-2.

Rep. Andreason moved that HB 183 be amended on page 3, line 2, following "to", strike "opening deposit accounts". Motion was defeated.

Rep. Fabrega - HB 183 allows two additional facilities to banks in cities of 50,000. The three mile limit was at the recommendation of the banks.

Rep. Vincent - Can funds be jockeyed around to a reasonable amount of reserve so the same 50% allowed would be the amount approved. Mr. Alke - Undivided accounts to surplus and so in effect they can increase surplus and qualify undivided reserve. Major portion of a bank's structure is capital surplus; 50% is all that can be allowed for fixtures. It takes an attorney general's opinion to allow any bank to spend a reasonable portion of its undivided profits into surplus and shows a capital amount that would be larger. Rep. Vincent - Is 50% a valid amount that should be put into fixed assets? Mr. Alke - Yes. Banking more to detract from capital.

Meeting adjourned at 11:40 a.m.

Josephine Lahti
Josephine Lahti, Secretary

Rep. W. J. Fabrega by
REP. W. J. FABREGA, CHAIRMAN *J. Lahti*

VISITORS' REGISTER

HOUSE Bill 310

COMMITTEE

Date 1-28-81

SPONSOR

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
Ken A. Vankh	Cent. Brnkl.	St. Peps Dist 13	X	
Don Chacofura	1024 Broadbridge Helena	unself	X	
Paul Baumbeck	Helena	Encage Secur Co.		X
Bill Ortiz	Helena	FSC neutral		
Phil J. Binney	Bozeman	Bozeman Cable TV	✓✓	X
Paul J. Menth	Big Timber	Big Timber Cable TV	✓✓	X
Marie Vainio	Butte	TCI	✓	X
By Rohrer	Kalispell	Teleprompter	✓	X
By Young	Kalispell	Teleprompter	✓✓	X
Pauline Carr	Great Falls	Teleprompter	✓	X
By Helen	Butte, MT	Teleprompter	✓	X
By Marie	MISSOULA, MT.	TELEPROMPTER	✓✓	X
By Wilbur	Helena, MT.	Teleprompter	✓	X
By Bill	Butte, MT	TCI	✓✓	X
By V. Huffany	Helena, MT	TCI	✓✓	X
By Haugberter	Helena	Mont Cable TV	✓	X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Exhibit A

HB 310
Area Forecast

CITY-TOWN	HOMES IN CABLE PLANT	SUB. COUNT	% HOMES ON CABLE	INSTALL RECONNECT	MONTHLY CHARGE	NO. CH.	OFF AIR	PBS
Alberton-----	120-----	120-----	100-----		\$ 8.00	3	3	No
Anaconda	3456	2317	67	\$19.95	8.75	10	2	yes
Baker*	804	600	74	10.00	10.00	9	4	yes
Belgrade*	700	395	56	19.95	8.95	11	3	yes
Big Fork	468	204	43	24.95	8.95	5	3	no
Big Timber	712	630	88	10.00	10.00	10	2	yes
Billings	26471	16424	62	19.95	9.25	9	3	yes
Bozeman	8688	5590	64	19.95	8.95	11	3	yes
Butte	15490	7685	49	19.95	9.25	9	2	yes
Chinook**	800	300	37	15.00	11.00	9	4	no
Choteau*	900	494	54	15.00	11.00	9	3	no
Columbia Falls	1868	1129	60	24.95	9.50	10	3	yes
Columbus	-----	-----	---	25.00	11.00	8	3	no
Conrad*	1400	454	32	15.00	11.00	9	4	no
Crow Agency	-----	-130	---	---	---	---	3	no
Cut Bank	1400	1400	100	24.95	9.95	8	3	no
Deer Lodge	2038	1248	61	19.95	8.40	9	2	yes
Dillon	1869	1320	70	19.95	8.75	10	2	yes
East Helena	692	426	61	19.95	9.25	10	2	yes
Ennis*	250	145	58	20.00	12.00	5	3	nc
Forsyth	800	725	90	23.50	10.00	10	4	yes
Fort Benton*	600	388	64	15.00	11.00	9	3	no
Glasgow	1714	1270	74	15.00	11.00	11	3	no
Glendive	3080	2599	84	19.95	8.25	9	3	yes
Gt. Falls	20702	14632	70	19.50	8.95	10	3	yes
Hamilton	4850	1100	22	24.95	8.95	9	2	yes
Hardin	1326	1075	81	10.00	10.00	10	3	yes
Harlowton*	---	241	--	10.00	11.00	7	2	no
Havre	4250	3970	93	18.00	9.50	10	2	no
Helena	14273	7936	55	19.95	9.25	10	3	yes
Kalispell	9047	5186	57	24.95	9.50	11	3	yes
Laurel	---	---	--	25.00	10.00	11	3	no
Lewistown	2940	2230	75	19.95	8.95	11	4	yes
Livingston	3616	2847	78	19.95	8.95	11	2	yes
Malta*	1400	683	48	15.00	14.00	9	3	no
Miles City	4673	3366	72	19.95	8.50	9	2	yes
Missoula	18750	12000	64	24.95	8.95	11	2	yes
Plentywood	750	600	80	10.00	12.00	8	3	no
Polson	1257	700	55	24.95	8.95	7	3	yes
Rattlesnake	-----	-----	---	25.00	10.50	9	2	yes
Red Lodge	750	601	80	15.00	10.00	8	2	yes
Shelby	950	950	100	24.95	9.95	8	3	no
Sidney	1835	1573	85	15.00	11.00	11	3	yes
Townsend*	550	358	65	15.00	11.00	9	3	no
Whitefish	2922	2032	69	24.95	9.50	10	3	yes
Wolf Point*	1100	700	63	20.00	10.00	10	3	no

*-----Built in 1980 **----built & turned on 1981
 No. Ch. (number of channels carried) does not include pay channel but does count local weather channel if system has one.

Alberton, Big Fork & Crow Agency do not have a pay channel.

T.C. Jacks - \$1.50 per month.
 CB - Shelby - Emitter Station
 ATUM - 7A - 109 per sub - 17 months

Spokane - \$2000 = per month
 Bismarck REA - 4.35 yr - Pole Chg.
 Glacier REA - 3.25 yr - Pole Chg.

LAW OFFICE

ALFRED F. DOUGHERTY

P. O. BOX 593

HELENA, MONTANA 59601

TELEPHONE 406 / 442-1440

SUITE 1-C - PENWELL BUILDING - 34 WEST SIXTH AVENUE

28 January 1981

STATEMENT IN OPPOSITION TO H.B. 310
BEFORE HOUSE COMMITTEE
ON
BUSINESS AND INDUSTRY

This is the third consecutive legislative session the Montana Cable Television Industry has had to meet the threat of being subjected to regulation as a public utility. In the two previous sessions the bill received a "Do Not Pass" recommendation from this committee; and on behalf of the Montana Cable Television Association I respectfully submit the present bill, House Bill No. 310, should also be recommended "Do Not Pass."

CATV systems lack the most essential feature characteristic of public utilities - they do not provide an essential service.

The CATV industry provides a convenience rather than a necessity. It is an (1) extension of the broadcast industry which has not been regulated as a public utility and (2) it is a competitive means of providing entertainment which can be enjoyed in the home.

Its function is quite different from the telephone industry which is universally recognized as a public utility. With the possible exception of the mail, telephone service is the most important private communications vehicle in our society. CATV cannot claim a comparative degree of importance. CATV actually plays a minor role in the scheme of public communications.

The telephone is considered indispensable in the home, office, store, factory, and government. CATV cannot be said to be indispensable.

A most important essential of public utility status is that such companies have governmental protection from competitors who would seek to provide the same service.

However, CATV systems are subject to competition from any of several sources. CATV systems face direct competition from over-the-air television through the use of conventional antennas owned by residents.

CATV systems also face direct competition from translator systems which serve to amplify television signals into areas which would not otherwise receive high quality television service.

Montana has 289 translator stations serving all parts of the state - a rather formidable mass of competition for the state's 52 CATV systems. . . . Many of those translators have sought and now receive tax funds from residents in the areas they serve.

Moreover, since cable television is an entertainment luxury it faces additional competition from other forms of entertainment - such as theaters, sporting events, outdoor recreation, magazines, and newspapers - and that is as it should be.

It is evident that, as a result of the extensive competition it faces, CATV cannot be classified either as a necessity or a monopoly.

A random check yesterday with some widely dispersed CATV operators in this state revealed that only 62% of the homes passed by the Billings CATV system subscribe to it. . . . In Butte the figure is 49%. . . . In Hamilton it is 47.8%. . . . In Conrad, only 32%. . . . And here in Helena, 55%.

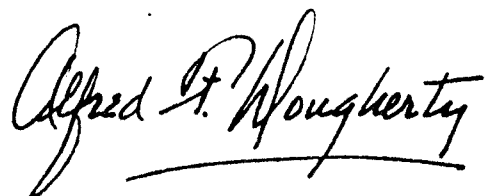
Regulation of cable television as a public utility would involve creation of another bureau within the framework of an already over-worked Public Service Commission. And it would mean to the cable television industry diversion of time, personnel, and money to expensive paper work and costly hearing procedures. Put another way, it would be nothing more than added cost to both government and the cable television industry and ultimately to the cable subscriber and general public.

There is already considerable regulation of cable television at the federal level - what stations must be carried, and many technical standards. State regulation would constitute a burdensome and unnecessary load on the industry.

We talk endlessly in these halls about taking regulatory burdens off the backs of businessmen. We praise private initiative. We glorify small business. Yet House Bill No. 310 would negate all those assertions by classifying a non-essential entertainment-news service as a public utility with all the costly bureaucratic paraphernalia attached to that term.

Since cable TV is neither a necessity nor a monopoly it is neither required nor proper to classify it as a monopoly.

I request this Committee to kill H.B. 310.



28 January 1981

TESTIMONY IN OPPOSITION TO
HOUSE BILL NO. 310
BEFORE THE HOUSE COMMITTEE
ON
BUSINESS AND INDUSTRY

My name is McLean Clark. I live in Big Timber and own and operate the Big Timber Cable TV.

I am also currently the President of the Montana Cable Television Association, which has member cable systems in 46 communities throughout the state.

Cable TV came to Montana in 1953 when the first cable system was built in Kalispell.

In 1954 four more systems were built - in Livingston, Big Timber, Havre, and Bozeman.

The 5 systems offered one channel of TV to subscribers at a rate of \$3.50 per month. The hook-up charge was \$135.00. . . . Remember those were 1954 dollars!

In 1956 Kalispell, Livingston and Big Timber brought the first live TV to the state. None of the TV stations in Montana did any live TV at that time.

By 1962 the number of cable TV systems had grown to 16 and 22,842 homes were being served.

Now - 1981 sees 51 or 52 cable systems in the state, with more than 112,000 homes being served. Since there are an average of about 3 persons in each household it is apparent about 336,000 Montana residents are enjoying cable TV.

Cable systems built in the early days of the cable industry would be inadequate today. They have had to rebuild as technology has advanced.

The first systems had to rebuild in the early 1960's so that four or five channels could be viewed.

In the early 1970's it was necessary to rebuild again so that six or seven channels could be viewed.

These re-builds meant discarding old electronic gear and cable and building new systems.

"Came the Revolution" in 1976 when satellites were placed in space and TV transmission from them became a reality.

Page 2

Testimony in Opposition to H.B. 310

By 1979 most of Montana's cable systems had installed earth-receive stations - and, suddenly, cable systems were able to expand their service to 10 or 11 or, in some cases, 12 channels.

But already - with electronic technology advancing so rapidly - we are faced with the need to rebuild most of our systems in the 80's in order to provide 15, 16, or more channels.

Members of the Committee, we have come this far without state regulation. We are proud our service has expanded. We think we have 7 or 8 times the service we were able to provide in the 1950's at an average of less than three times the cost then. We think we have demonstrated private industry can serve the public interest without governmental regulation or interference.

We look forward to the next 25 years with the hope we can continue to serve with the same satisfaction.

We respectfully request you to kill H.B. 310.

Respectfully submitted,



MCLEAN CLARK
President
Montana Cable Television
Association

Owner-operator of Big
Timber Cable TV, Big
Timber, Montana

LAW OFFICE

ALFRED F. DOUGHERTY

P. O. BOX 593

HELENA, MONTANA 59601

TELEPHONE 406 / 442-1440

SUITE 1-C - PENWELL BUILDING - 34 WEST SIXTH AVENUE

13 February 1981

Representative Jay Fabrega, Chairman
House Committee on Business and Industry
Helena, Montana

Dear Chairman Fabrega,

Enclosed is the Directory of the Montana Cable Television
Association which you requested.

Sincerely yours,

ALFRED F. DOUGHERTY
Counsel
Montana Cable Television
Association

AFD/ch
enclosure

MEMBERSHIP ROSTER

MONTANA CABLE TELEVISION ASSOCIATION

February 2, 1981

ALBERTON

ALBERTON CABLE TV
Alberton, Montana 59820
Victor B. Gates, Owner
722-4955

ANACONDA

ANACONDA CABLE TV
118 Main Street
Anaconda, Montana 59711
Phillip Watt, Mgr.
563-8201

BAKER

BAKER CABLE TV
906 S. 4th West
Baker, Montana 59313
Tom Overton, Mgr.
778-2937 or 778-2539

BIG FORK

See listing under KALISPELL
for TelePrompter Cable TV

BIG TIMBER

BIG TIMBER CABLE TV
Drawer C
Big Timber, Montana 59011
McLean A. Clark, Owner
932-2976, 932-2441, or 932-2971

BILLINGS

BILLINGS CABLE TV
1124 - 16th St. West
Billings, Montana 59102
✓ Douglas Rice, Mgr.
248-1200

BOZEMAN

BOZEMAN CABLE TV
(also manages Belgrade system)
511 West Mendenhall
Bozeman, Montana 59715
✓ Bob Briney, Mgr.
586-1837

BUTTE

BUTTE CABLE TV
201 East Front Street
Butte, Montana 59701
Douglas Striker, Mgr.
792-5329

CHINOOK

See listing under GREAT FALLS
for Vigilante Satellite Services

CHOTEAU

See listing under GREAT FALLS
for Vigilante Satellite Services

COLUMBIA FALLS

See listing under KALISPELL
for TelePrompter Cable TV

COLUMBUS

CENTRAL CABLE TV
P.O. Box 427
Laurel, Montana 59044
Les Hilliard
628-4290

CONRAD

See Listing under GREAT FALLS
for Vigilante Satellite Services

CROW AGENCY

See listing under HARDIN for
Crow Cable TV

CUT BANK

TELEPROMPTER OF CUT BANK
P.O. Box 836
Cut Bank, Montana 59427
Richard (Don) Cullen, Mgr.
873-2223

DEER LODGE

DEER LODGE CABLE TV
308 Milwaukee Avenue
Deer Lodge, Montana 59722
Lawrence B. Moody, Mgr.
846-1383

KALISPELL

TELEPROMPTER CABLE TV
 (also manages systems in Big Fork,
 Columbia Falls, Polson, Whitefish)
 333 First Avenue East
 Kalispell, Montana 59901
 ✓ Ken Young, Mgr.
 755-7202

LAUREL

LAUREL CABLE TV
 (also manages Rattlesnake system
 in Missoula)
 P.O. Box 427
 Laurel, Montana 59044
 Les Hilliard, Owner
 628-4290

LEWISTOWN

LEWISTOWN CABLE TV
 P.O. Box 638
 Lewistown, Montana 59457
 ✓ Ernie Hruska, Mgr.
 538-3818

LIVINGSTON

LIVINGSTON CABLE TV
 203 South Main
 Livingston, Montana 59047
 Randolph Bailey, Mgr.
 222-0232

MALTA

See listing under GREAT FALLS
 for Vigilante Satellite Services

MILES CITY

MICRO-TV, INC.
 P.O. Box 489
 Miles City, Montana 59301
 Tom Glendenning, Mgr.
 232-2421

MISSOULA

TELEPROMPTER OF MISSOULA
 (also manages Hamilton system)
 P.O. Box 5327
 Missoula, Montana 59806
 ✓ Larry T. Brodie, Mgr.
 728-4205

RATTLESNAKE CABLE CO., INC.
 See listing under LAUREL for
 Laurel Cable TV

PHILIPSBURG

PHILIPSBURG CABLE TV
 P.O. Box 40
 Philipsburg, Montana 59858
 Donald Henke, Owner
 563-6600

PLENTYWOOD

PLENTYWOOD CABLE TV
 P.O. Box 128
 Plentywood, Montana 59254
 Ernest Berland, Mgr.
 765-1199

POLSON

See listing under KALISPELL
 for TelePrompter Cable TV

RED LODGE

RED LODGE CABLE TV
 P.O. Box N
 Red Lodge, Montana 59068
 Roger Williams, Owner
 446-1880

SHELBY

TELEPROMPTER OF SHELBY
 (managed from Cut Bank Tele-
 Prompter office)
 Box 836
 Cut Bank, Montana 59427
 Richard (Don) Cullen, Mgr.
 873-2223

SIDNEY

SIDNEY CABLEVISION
 (also manages Wolf Point system)
 208 - 2nd Avenue S.E.
 Sidney, Montana 59270
 Walter Horton, Mgr.
 482-3613

TOWNSEND

See listing under GREAT FALLS
 for Vigilante Satellite Services

WHITEFISH

See listing under KALISPELL
 for TelePrompter of Kalispell

WOLF POINT

WOLF POINT CABLE TV
 See listing under SIDNEY
 for Sidney Cablevision

Supplement

DISTRICT MANAGERS

Mr. E.K. Tarlen, Dist. Mgr.
TelePrompter Corp.
15241 Pacific Hiway South
Seattle, WA. 98180

Mr. Hank Sexton
Butte Cable TV
201 East Front Street
Butte, Montana 59701

Mr. Ian Elliot
Community Tele-Communications
P.O. Box 1925
Bozeman, MT 59715



mcta

MONTANA CABLE TELEVISION ASSOCIATION

16 February 1981

To: All MCTA Members

As you know, House Bill No. 310 (which would have designated CATV a public utility subject to regulation and supervision by the Public Service Commission) is dead.

Some of the members of the House Committee on Business and Industry have nonetheless directed to the Montana Cable Industry a "letter of concern" about hook-up charges levied by some Montana cable systems. I enclose a copy of that letter, dated February 12, 1981, signed by ten of the Committee's nineteen members.

Please study the letter and retain it in your files.

This Association cannot lawfully mandate or suggest what its members should or may charge for any of the services they provide their customers. The message from the legislators who signed the enclosed letter should be evaluated by each member system individually. Under no circumstances should members consult or agree, either directly or indirectly, among themselves regarding fees or charges to be levied against their customers.

Sincerely yours,


ALFRED F. DOUGHERTY
Counsel

AFD/ch
enclosures

President

McLean A. Clark
Drawer C
Big Timber, Montana 59011
Phone: (406) 932-2441

Vice President

Earl Granger
P.O. Box 2363
Great Falls, Montana 59401
Phone: (406) 761-3427

Immediate Past President

Larry T. Bredie
P.O. Box 5327
Missoula, Montana 59806

Secretary-Treasurer

Bob Briney
P.O. Box 1601
Bozeman, Montana 59715
Phone: (406) 586-1837

General Counsel

Alfred F. Dougherty
P.O. Box 593
Helena, Montana 59601
Phone: (406) 442-1440

Directors

Earl Granger
P.O. Box 2363
Great Falls, Montana 59401
Phone: (406) 761-3427

Walt McCall
P.O. Drawer 6848
Great Falls, Montana 59406
Phone: (406) 727-8881

Tom Glendenning
P.O. Box 489
Miles City, Montana 59201



The Big Sky Country

MONTANA STATE HOUSE OF REPRESENTATIVES

REPRESENTATIVE JOHN VINCENT

Committees:
Rules
Business and Industry
Education, and Cultural Resources
Member, Legislative Council

February 12, 1981

To the Montana Cable Television Industry:

Although this committee, after considering House Bill 310, an act to bring the cable television industry under the regulation of the Public Service Commission, recommended that the bill do not pass, the undersigned members of the Business and Industry committee have serious concerns about certain practices that appear to be prevalent within certain cable companies in Montana.

We believe we must convey these concerns to the owners and operators of cable television systems to assure that there is no misunderstanding of the committee's action and to emphasize the undersigned's desire for remedial action by the industry.


Of paramount concern to us is the belief that charges should be imposed only for services actually rendered. The committee was informed that some cable television companies in the Montana industry impose the full hook-up charge whenever a customer moves from one location to another, regardless of whether the cable facilities have already been installed in the new location and regardless of whether the customer had service at his previous residence.

The undersigned committee members believe a graduated schedule of charges should reflect the degree of service required. If full service is provided full charge is justified. Charges for lesser degrees of service should be proportionate to the costs incurred. To assure equitable treatment for both the customer and the company, the customer should expect to pay a reasonable charge for all services, but the company should not expect payment for services not actually and necessarily rendered.

The undersigned members of the committee hope that practices contrary to these criteria will be discontinued, wherever practiced.

We sincerely trust you will accept this letter in the spirit of friendly cooperation in which it is intended.

Sincerely,



Richard E. Manning
David C. Metcalf
John Payne
Tom Robbins
David A. O'Hara
Aaron W. Andreason
Toni Bergene
[unclear]
W. J. [unclear]

Copy of attached letter to the Montana Cable Television Industry was sent to the following:

Alfred F. Dougherty
P.O. Box 593
Helena, MT 59624

Wesley V. Huffman
Helena Cable TV
P.O. Box 5509
Helena, MT 59601

Robert J. Brinev, Manager
Bozeman Cable TV
511 West Mendenhall
Bozeman, MT 59715

McLean A. Clark
Big Timber Cable TV
Drawer C
Big Timber, MT 59011

Marie Vainio
Butte Cable TV
201 East Front Street
Butte, MT 59701

Ray Rohrer
Teleprompter Cable TV
333 First Avenue East
Kalispell, MT 59901

Ken Young
Teleprompter Cable TV
333 First Avenue East
Kalispell, MT 59901

Walt McCall
Teleprompter of Great Falls
P.O. Drawer 6848
Great Falls, MT 59406

W. H. Sutton
Butte Cable TV
201 East Front Street
Butte, MT 59701

Larry T. Brodie, Manager
Teleprompter of Missoula
P.O. Box 5327
Missoula, MT 59806

Ernie L. Hruska, Manager
Lewistown Cable TV
P.O. Box 638
Lewistown, MT 59457

Douglas Rice, Manager
Billings Cable TV
Drawer C
Big Timber, MT 59011

NAME Bob Durkee BILL No. HB 266
ADDRESS Helena DATE _____
WHOM DO YOU REPRESENT Mont TAVERA ASSN
SUPPORT OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

January 27, 1981

Respectfully recommend the Proposed Amendments House Bill 266,
submitted by Rep. Gould

be amended as follows:

1. Amend page 1, line 24

Following: "line 23"

Insert: "(3) for the purpose of subsection (1), a case lot is
determined as the number of bottles required by the following
table:

Bottle Size	Number of Bottles
50 milliliter	120
200 milliliter	48
500 milliliter	24
750 milliliter	12
1 liter	12
1.75 liter	6 "

And, as so amended,
DO PASS

NAME Jack Williams BILL No. H/B 967
ADDRESS 3727 Flawers Drive Selma DATE 1-29-81
WHOM DO YOU REPRESENT Mont Chiefs of Police
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Hard to keep track of.
Needs more Policing for hours.
Family fights after bar closing
Disturbances at Cafes later hours.

BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL VOTE

BILL # 113

DATE 1/23

MOTION *By those as amended*

Committee Members	Yes	No	EXCUSED ABSENT
ANDREASON, Aaron		✓	
BERGENE, Toni	✓		
ELJERD, Bob		✓	
ELLISON, Orval			A
FABREGA, Jay	✓		
HARPER, Hal	✓		
JACOBSEN, Glenn		✓	
JENSEN, Ray		✓	
KESSLER, Gerald	✓		
KITSELMAN, Les	✓		
MANNING, Dick	✓		
MEIKALF, Jerry	✓		
MEYER, Darryl	✓		
O'HARA, David	✓		
PAVLOVICH, Bob	✓		
ROBBINS, Ken		✓	
SHULTZ, Jim	✓		
VINCENT, John	✓		
WALLIN, Norm		✓	
TOTALS	12	6	1