

**MINUTES**

**MONTANA SENATE  
57th LEGISLATURE - REGULAR SESSION  
COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **CHAIRMAN MIKE TAYLOR**, on February 20, 2001 at 7:00 A.M., in Room 422 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Mike Taylor, Chairman (R)  
Sen. Mike Sprague, Vice Chairman (R)  
Sen. Dale Berry (R)  
Sen. Edward Butcher (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Sam Kitzenberg (R)  
Sen. Dale Mahlum (R)  
Sen. Glenn Roush (D)  
Sen. Don Ryan (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Bart Campbell, Legislative Branch  
Kyanne Kelly, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted:  
Executive Action: SB 491; SB 490; SB 402; SB 465;  
SB 441; SB 277; SB 401; SB 86

**HEARING ON SB 491**

**Sponsor:** SENATOR MIKE TAYLOR, SD 37, PROCTOR

**Proponents:** Geoff Feiss, MT Telecommunications Association  
Becky Berger, Touch America

**Opponents:** None

**Informational Witness:** Todd Everts, Legislative Services

**Opening Statement by Sponsor:**

*{Tape : 1; Side : A; Approx. Time Counter : 1.1}*

SENATOR MIKE TAYLOR, SD 37, PROCTOR, said this bill prohibits the telemarketer from blocking access to the telemarketers' or sellers' phone number. He stated that if they keep calling you when you don't want it, you can get their number and report them to the Department of Commerce.

**Proponents' Testimony:**

Geoff Feiss, Montana Telecommunications Association, said this is an excellent and elegant solution to the problem of unwanted telemarketing calls.

Becky Berger, Touch America, said this bill would solve a lot of problems we have in Montana

**Opponents' Testimony:** None

**Informational Witness:** Todd Everts, Legislative Services made himself available for any technical questions the committee might have about this bill.

**Questions from Committee Members and Responses:**

SENATOR VICKI COCCHIARELLA asked about the enforcement of this bill.

Todd Everts said the telemarketers have to register in this state and that would give the Department access to the offending parties.

**Closing by Sponsor:**

*{Tape : 1; Side : A; Approx. Time Counter : 13.1}*

**SENATOR MIKE TAYLOR, SD 37, PROCTOR**, closed by asking the Committee for a "do pass".

**HEARING ON SB 490**

**Sponsor:** SENATOR MIKE TAYLOR, SD 37, PROCTOR

**Proponents:** Jerry Driscoll, Building Trades Council  
Darrell Holzer, AFL-CIO  
Carl Schweitzer, Subcontractors Association

**Opponents:** Joe Hansen, Edsall Construction  
Tom Ebzery, Montana Contractors Association

**Informational Witness:** Russ Katherman, Dept of Administration

**Opening Statement by Sponsor:**

*{Tape : 1; Side : A; Approx. Time Counter : 13.4}*

**SENATOR MIKE TAYLOR, SD 37, PROCTOR**, said this bill would be a change in how the Department of Administration does business. He noted that this bill says that price may not be the sole factor in determining contracts awards.

**Proponents' Testimony:**

**Jerry Driscoll, Building Trades Council**, said this bill better defines what a bona fide contractor does in bidding for public works.

**Darrell Holzer, AFL-CIO**, said he sees this as a Montana taxpayer protection act which will greatly enhance and insure quality contracts for the state.

**Carl Schweitzer, Subcontractors Association**, said he thinks this should be seriously considered because the state would get a better product.

**Opponents' Testimony:**

**Joe Hansen, Edsall Construction,** said he thought the building contractors should have been consulted before this bill was put out. He also stated that other states then would have a "me too" law from this, that is, a Montana contractor would have to come in under 4% of the in-state contractor in other states he makes bids.

**Tom Ebzery, Montana Contractors Association,** said the timing of the bill was curious in that it would set competitive bidding on its head and yet was introduced so close to transmittal date. He said the criteria were vague.

**Informational Witness: Russ Katherman, Department of Administration,** made himself available for questions.

**Questions from Committee Members and Responses:**

**SENATOR DALE MAHLUM** asked about the percentages, how much would be weighted for lowest price, and how much for other factors. He also asked about what would happen if the contractor didn't finish on time.

**SENATOR MIKE TAYLOR** explained that the price would count for 80% of the bid, and the bill lays out the criteria for the other 20%. He said it is already in law that if the contractor doesn't finish on schedule he will have to pay so much per day.

**SENATOR VICKI COCCHIARELLA** asked what percentage of the Contractors Association members were in building as compared to highways.

**Joe Hanson** said there are more highway contractors than there are building contractors.

**SENATOR COCCHIARELLA** said this bill seems to sort out contractors who do the best job, she asked if there was any other way for that determination to be made.

**Joe Hanson** said there is, and the contractors want to be part of drafting the legislation.

**SENATOR MIKE SPRAGUE** asked about concerns in implementation.

**Russ Katherman** said it would be very workable in implementation.

**SENATOR SPRAGUE** asked what the Department would use as their baseline so people could evaluate the fairness of the selections.

**Russ Katherman** said any requests for proposals would need to have the criteria set right up front.

**SENATOR DON RYAN** asked about the 2 year pre-qualification period.

**SENATOR TAYLOR** said that maybe 2 years is too long.

**Closing by Sponsor:**

*{Tape : 1; Side : B; Approx. Time Counter : 16.3}*

**SENATOR MIKE TAYLOR, SD 37, PROCTOR,** said this bill sets out criteria for quality. He further stated he is willing to work with the contractors to listen to their input on the bill.

**EXECUTIVE ACTION ON SB 490**

**Motion/Vote:** SEN. TAYLOR moved that **AMENDMENTS TO SB 490 BE ADOPTED.** Motion carried unanimously.

**Motion/Vote:** SEN. COCCHIARELLA moved that **SB 490 DO PASS AS AMENDED.** Motion carried 8-1 with Ryan voting no.

**EXECUTIVE ACTION ON SB 491**

**Motion/Vote:** SEN. RYAN moved that **SB 491 DO PASS.** Motion carried unanimously.

**EXECUTIVE ACTION ON SB 402**

**Motion:** SEN. COCCHIARELLA moved that **AMENDMENTS TO SB 402 BE ADOPTED.**

**Discussion:** **SENATOR DEBBIE SHEA** said the Department of Transportation had a concern in that they did not want the insurance to be the determining factor in the bidding. She said she wrote an amendment to take care of that.

**Vote:** Motion carried unanimously.

**Motion: SEN. COCCHIARELLA** moved that **SB 402 DO PASS AS AMENDED.**

**Discussion: SENATOR ED BUTCHER** thinks this would put a great strain on small business people who are just getting started. He said he thinks this would penalize the small business people.

**SENATOR VICKI COCCHIARELLA** said they could include the medical insurance into the cost of their bid. She said this would save everybody money.

**Vote: Motion** carried 5-4 with **Berry, Butcher, Mahlum, and Taylor** voting no.

#### **EXECUTIVE ACTION ON SB 465**

**Motion: SEN. COCCHIARELLA** moved that **AMENDMENTS TO SB 465 BE ADOPTED.**

**Discussion: SENATOR COCCHIARELLA** said these amendments were agreed to by the revising committee from the auditor's office and insurance people.

**Jan Van Riper** said these amendments were agreed upon.

**CHAIRMAN TAYLOR** said he has concerns about the amendments. **Jan Van Riper** said that some people still want more amendments, but the current ones meet agreement.

**Vote: Motion** carried unanimously.

**Motion/Vote: SEN. COCCHIARELLA** moved that **SB 465 DO PASS AS AMENDED.** Motion carried unanimously.

#### **EXECUTIVE ACTION ON SB 441**

**Motion/Vote: SEN. RYAN** moved **SB 441** be taken off the table. Motion carried 5-4 with **Cocchiarella, Kitzenberg, Mahlum, and Taylor** voting no.

**Motion: SEN. RYAN** moved that **AMENDMENTS TO SB 441 BE ADOPTED.**

**Discussion: SENATOR RYAN** brought before the committee some amendments which would deal with the objection that passage of this bill would pass on an unfunded mandate to the 2003,

legislature. He noted that the amendment says that if it is not funded in 2003 it would be repealed.

**Motion carried unanimously.**

**Motion/Vote: SEN. RYAN moved that SB 441 DO PASS AS AMENDED.**

**Motion carried 6-3 with Kitzenberg, Mahlum, and Roush voting no.**

#### **EXECUTIVE ACTION ON SB 277**

**Motion/Vote: SEN. RYAN moved SB 277 be taken off the table.**

**Motion carried unanimously.**

**Motion: SEN. RYAN moved that AMENDMENTS TO SB 277 BE ADOPTED.**

**Discussion: SENATOR VICKI COCCHIARELLA** said these amendments would provide that the only things that would need a permit would be the things inside the wall, things a homeowner normally wouldn't get involved with anyway.

**Vote: Motion carried unanimously.**

**Substitute Motion/Vote: SEN. TAYLOR moved that SB 277 BE TABLED.**

**Motion failed 4-5 with Berry, Butcher, Kitzenberg, and Taylor voting aye.**

**Motion/Vote: SEN. RYAN moved that SB 277 DO PASS AS AMENDED.**

**Motion carried 6-3 with Berry, Butcher, and Taylor voting no.**

#### **EXECUTIVE ACTION ON SB 401**

**Motion: SEN. TAYLOR moved SB 401 be taken off the table.**

**Discussion: SENATOR COCCHIARELLA** said the committee would be doing a huge disservice to the women of the state because pregnancy would no longer be covered, but would have to be put on as an insurance rider. She said unisex insurance has worked in this state for several years.

**SENATOR BUTCHER** said that issue is addressed in the bill, and he didn't see anything wrong with the bill.

**Vote: Motion failed 5-4 with Berry, Butcher, Sprague, and Taylor voting aye.**

**EXECUTIVE ACTION ON SB 86**

**Motion/Vote:** SEN. TAYLOR moved that SB 86 BE TABLED. Motion carried 6-2 with Butcher and Kitzenberg voting no.

**ADJOURNMENT**

Adjournment: 8:30 A.M.

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SEN. MIKE TAYLOR, Chairman

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KYANNE KELLY, Secretary

MT/KK

**EXHIBIT (bus42aad)**