Testimony in Opposition to HB331

Senate Business, Labor & Economic Affairs Committee
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Neil Peterson
Executive Director
Gaming Industry Association of Montana

BUSINESS & LABOR
EXHIBIT NO. 7
DATE 3-17-09
BILL NO. HB 331

What HB331 Is Not About

- HB331 is not about fixing problems in the state's food supply. Montana's food supply is safe.
- HB331 is not about adding more food inspection staff. Current staff levels are getting the job done.
- HB331 is not about fixing a national problem. The Peanut Corporation of America issue isn't fixed by HB331

What is HB331 About?

- HB331 is all about increasing food service establishment license fees for grocery stores, restaurants, bars, convenience stores, and any other business where food or drink is prepared and served to the public.
- HB331 changes how food service establishment license fees are determined – currently license fees are set in statute, under HB331 fees would be set by an administrative rules process.

HB331 is About a Policy Change

- Should food service establishment licensee fees be set in statute or should these fees be set by administrative rule?
- Why Change?
  - Typically the legislature allows state agencies to set fees by rule when an internal service fund or enterprise fund is being used. (e.g. Department of Administration's Information Services Division)
  - In all cases fees set by rule or statute can only cover the cost of the service provided
  - Setting of fees by rule also occurs when there is a need to respond to business changes more quickly than every two years when the Legislature is in session

HB331 is About a Policy Change (cont.)

- The Department of Public Health and Human Services isn't operating an internal service fund or enterprise fund, nor do license fees need to be changed on a accelerated schedule different than that of the Legislative process.
- Increased revenue to local board's of health from a license fee increase may not translate to an increase in their overall budget.
- HB331 strikes language that reads license fee revenue must be used to supplement but not supplant other funds received by the board for the same purpose. County Commissioner's or City Council's are free reallocate funds to other programs.

What do Surrounding States Do?

- Wyoming sets in statute a fee of $100 for an initial application and a fee of $50 for renewals.
- North Dakota sets in statute fees ranging from $35 to $180 based upon the business, the business's seating or the business's square footage.
- Idaho sets in statute a fee of $65.

Summary

- The food service establishment license fee should continue to be set by the legislature.
- The administrative rules process as a means to set these fees is not necessary.
- If fees need to be increased or set by factors such as the type and size of the establishment, the type of foods prepared or the populations served it can be done through the statutory process.
- Please vote do not pass for HB331 in its current form