



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2009 Biennium

**Bill #** HB0392

**Title:** CAFO cost reimbursement in certain instances

**Primary Sponsor:** Bergren, Bob

**Status:** Second Reading

- Significant Local Gov Impact     
 Needs to be included in HB 2     
 Technical Concerns  
 Included in the Executive Budget     
 Significant Long-Term Impacts     
 Dedicated Revenue Form Attached

### FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<b>Expenditures:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

### FISCAL ANALYSIS

#### Assumptions:

1. Because the state does not regulate animal feeding operations (AFOs) that are not concentrated animal feeding operations (CAFOs), the compensation requirement would not be triggered by an AFO that is not a CAFO. Both AFOs and CAFOs house and maintain animals in a lot or facilities for 45 days in any 12 month period and are denuded of vegetation; CAFOs confine specific animal numbers that cause them to be regulated.
2. Reimbursement would not be required for currently existing CAFOs that do not have a permit on the effective date of HB 392 and that must reconstruct or modify the facility to obtain a CAFO permit.
3. This bill would apply to currently existing CAFOs that have a CAFO permit and must modify the permitted facility to come into compliance with rules that are more stringent than federal requirements.
4. Current state rules imposing sizing requirements for waste control structures are not more stringent than federal regulations imposing sizing requirements. Facility modifications needed to meet the sizing requirement in state CAFO rules would not trigger the compensation requirement.
5. Land application limitations in existing state CAFO rules do not require modification of facilities. Additional expense caused by required changes in land application practices would not be reimbursable under HB 392.

6. Federal CAFO regulations do not require protection of groundwater. Facility modification required at currently permitted CAFOs in Montana to protect groundwater would trigger the reimbursement requirement of HB 392. This is the only CAFO rule that would trigger the reimbursement requirement.
7. The bill language only triggers reimbursement after **initial** compliance with permit requirements have been met. Because a facility must first come into compliance with permit requirements that may include the rebuilding, moving, retrofitting, remodeling or reconstructing of a facility as part of permitting, it is impractical that a second change would occur. Further, 75-5-203, MCA, requires that state regulations be no more stringent than federal regulations without written findings and a public process that would highlight this cost and likely prove it unlikely that more stringent regulations would be adopted.
8. No changes to laws applicable to CAFOs are pending in the present legislative session that would trigger the compensation requirement of HB 392.
9. This bill has no fiscal impact to the state during the 2009 biennium and would have no impact during the 2011 biennium if no such legislation is enacted during the 2009 legislative session.

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*Sponsor's Initials*

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*Date*

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*Budget Director's Initials*

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*Date*