

# Multiple Agency Fiscal Note Summary

|                                  |                                 |
|----------------------------------|---------------------------------|
| <b>Bill Number:</b> 5108 P 2S SB | <b>Title:</b> Criminal trespass |
|----------------------------------|---------------------------------|

## Estimated Cash Receipts

| Agency Name     | 2003-05   |       | 2005-07   |       | 2007-09   |       |
|-----------------|-----------|-------|-----------|-------|-----------|-------|
|                 | GF- State | Total | GF- State | Total | GF- State | Total |
|                 |           |       |           |       |           |       |
|                 |           |       |           |       |           |       |
| <b>Total \$</b> |           |       |           |       |           |       |

|                     |   |  |  |  |  |
|---------------------|---|--|--|--|--|
| Local Gov. Courts * | Non-zero but indeterminate cost. Please see discussion. |  |  |  |  |
| Local Gov. Other ** | Fiscal note not available                               |  |  |  |  |
| Local Gov. Total    |   |  |  |  |  |

## Estimated Expenditures

| Agency Name                             | 2003-05   |             |             | 2005-07 |             |             | 2007-09 |             |             |
|---|---|-------------|-------------|---------|-------------|-------------|---------|-------------|-------------|
|   | FTEs  | GF-State    | Total       | FTEs    | GF-State    | Total       | FTEs    | GF-State    | Total       |
| Office of Administrator for the Courts  | Non-zero but indeterminate cost. Please see discussion. |             |             |         |             |             |         |             |             |
| Utilities and Transportation Commission | Fiscal note not available                               |             |             |         |             |             |         |             |             |
| Military Department                     | .0  | 0           | 0           | .0      | 0           | 0           | .0      | 0           | 0           |
| Department of Health                    | .0  | 0           | 0           | .0      | 0           | 0           | .0      | 0           | 0           |
| Department of Transportation            | .0  | 0           | 0           | .0      | 0           | 0           | .0      | 0           | 0           |
| Department of Ecology                   | .2  | 117,712     | 235,424     | .2      | 117,190     | 234,380     | .2      | 117,190     | 234,380     |
| Department of Fish and Wildlife         | .0  | 0           | 0           | .0      | 0           | 0           | .0      | 0           | 0           |
| Department of Natural Resources         | 2.6   | 264,000     | 322,000     | 2.6     | 264,000     | 322,000     | 2.6     | 264,000     | 322,000     |
| Department of Agriculture               | 1.0   | 780,576     | 780,576     | 1.0     | 780,576     | 780,576     | 1.0     | 780,576     | 780,576     |
| <b>Total</b>                            | 3.8   | \$1,162,288 | \$1,338,000 | 3.8     | \$1,161,766 | \$1,336,956 | 3.8     | \$1,161,766 | \$1,336,956 |

|                     |   |  |  |  |  |  |  |  |
|---------------------|---|--|--|--|--|--|--|--|
| Local Gov. Courts * | Non-zero but indeterminate cost. Please see discussion. |  |  |  |  |  |  |  |
| Local Gov. Other ** | Fiscal note not available                               |  |  |  |  |  |  |  |
| Local Gov. Total    |   |  |  |  |  |  |  |  |

|  |
|--|
|  |
|--|

|                                       |                               |   |
|---------------------------------------|-------------------------------|---|
| <b>Prepared by:</b> Garry Austin, OFM | <b>Phone:</b><br>360-902-0564 | <b>Date Published:</b><br>Preliminary 3/ 4/2003 |
|---------------------------------------|-------------------------------|---|

\* See Office of the Administrator for the Courts judicial fiscal note

\*\* See local government fiscal note

# Judicial Impact Fiscal Note

|                                  |                                 |  |
|----------------------------------|---------------------------------|--|
| <b>Bill Number:</b> 5108 P 2S SB | <b>Title:</b> Criminal trespass | <b>Agency:</b> 055-Office of<br>Administrator for Courts |
|----------------------------------|---------------------------------|--|

## Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

*The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.*

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.

|                                 |                       |                  |
|---------------------------------|-----------------------|------------------|
| Legislative Contact:            | Phone:                | Date: 02/21/2003 |
| Agency Preparation: Julia Appel | Phone: (360) 705-5229 | Date: 02/21/2003 |
| Agency Approval: Janet McLane   | Phone: (360) 705-5305 | Date: 02/25/2003 |
| OFM Review: Garry Austin        | Phone: 360-902-0564   | Date: 02/25/2003 |

**Part II: Narrative Explanation**

**II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts**

Sec. 3. of this bill amends 9A.52.070, criminal trespass in the first degree.  
The new language states: "...a state public official or employee of the state 'enters or remains unlawfully' under the same circumstances as any other person, except that it is not unlawful for such an official or employee to enter or remain in a building..." and exceptions are listed.

Sec. 4. of this bill amends 9A.52.080, criminal trespass in the second degree.  
The new language states: "...a state public official or employee of the state 'enters or remains unlawfully' under the same circumstances as any other person, except that it is not unlawful for such an official or employee to enter or remain in or upon premises of another..." and exceptions are listed.

**II. B - Cash Receipts Impact**

**II. C - Expenditures**

It is possible under this bill that additional gross misdemeanor and misdemeanor charges will be filed for the crimes of criminal trespass first and second degree. This will have an impact on the Washington courts, but that impact is unknown as it is not possible to estimate how many charges might be filed.

**Part III: Expenditure Detail**

**Part IV: Capital Budget Impact**

# Individual State Agency Fiscal Note

|                                  |                                 |  |
|----------------------------------|---------------------------------|--|
| <b>Bill Number:</b> 5108 P 2S SB | <b>Title:</b> Criminal trespass | <b>Agency:</b> 245-Military Department |
|----------------------------------|---------------------------------|--|

## Part I: Estimates

☒ No Fiscal Impact

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

|                                      |                       |                  |
|--------------------------------------|-----------------------|------------------|
| Legislative Contact:                 | Phone:                | Date: 02/21/2003 |
| Agency Preparation: Laura VanderMeer | Phone: (253) 512-7596 | Date: 02/24/2003 |
| Agency Approval: Frank Scoggins, MG  | Phone: (253) 512-3355 | Date: 02/25/2003 |
| OFM Review: Robin Campbell           | Phone: 360-902-0575   | Date: 02/25/2003 |

# Individual State Agency Fiscal Note

|                                  |                                 |   |
|----------------------------------|---------------------------------|---|
| <b>Bill Number:</b> 5108 P 2S SB | <b>Title:</b> Criminal trespass | <b>Agency:</b> 303-Department of Health |
|----------------------------------|---------------------------------|---|

## Part I: Estimates

☒ No Fiscal Impact

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

|                                 |                     |                  |
|---------------------------------|---------------------|------------------|
| Legislative Contact:            | Phone:              | Date: 02/21/2003 |
| Agency Preparation: Sheryl Reed | Phone: 360-236-3006 | Date: 02/21/2003 |
| Agency Approval: Terry Davis    | Phone: 360-236-4530 | Date: 02/25/2003 |
| OFM Review: Elise Greef         | Phone: 360-902-0539 | Date: 02/26/2003 |

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Sections 1-5

Declares that all persons, except for very limited circumstances, whether government employees or private persons, be made subject to criminal trespass laws in regard to entering upon the property of another. Current laws extend special immunities from trespass laws for government employees for conducting investigations for rule violations or compliance with issued permits. This law would make them subject to trespass laws if the person is considered uninvited or unlawfully entering the property. The Division of Drinking Water envisions no fiscal impact.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

# Individual State Agency Fiscal Note

|                                  |                                 |   |
|----------------------------------|---------------------------------|---|
| <b>Bill Number:</b> 5108 P 2S SB | <b>Title:</b> Criminal trespass | <b>Agency:</b> 405-Department of Transportation |
|----------------------------------|---------------------------------|---|

## Part I: Estimates

☒ No Fiscal Impact

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

|                                    |                     |                  |
|------------------------------------|---------------------|------------------|
| Legislative Contact:               | Phone:              | Date: 02/21/2003 |
| Agency Preparation: Linda Anderson | Phone: 360-705-7306 | Date: 02/24/2003 |
| Agency Approval: Don Nelson        | Phone: 360-705-7101 | Date: 02/24/2003 |
| OFM Review: Tom Saelid             | Phone: 360-902-0562 | Date: 02/25/2003 |

# Individual State Agency Fiscal Note

|                                  |                                 |  |
|----------------------------------|---------------------------------|--|
| <b>Bill Number:</b> 5108 P 2S SB | <b>Title:</b> Criminal trespass | <b>Agency:</b> 461-Department of Ecology |
|----------------------------------|---------------------------------|--|

## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

|                 |  |  |  |  |  |
|-----------------|--|--|--|--|--|
| <b>FUND</b>     |  |  |  |  |  |
|                 |  |  |  |  |  |
| <b>Total \$</b> |  |  |  |  |  |

### Estimated Expenditures from:

|                            |         |         |         |         |         |
|----------------------------|---------|---------|---------|---------|---------|
|                            | FY 2004 | FY 2005 | 2003-05 | 2005-07 | 2007-09 |
| FTE Staff Years            | 0.2     | 0.2     | 0.2     | 0.2     | 0.2     |
| <b>Fund</b>                |         |         |         |         |         |
| GF - Federal-Federal 001-2 | 59,117  | 58,595  | 117,712 | 117,190 | 117,190 |
| GF - State-State 001-1     | 59,117  | 58,595  | 117,712 | 117,190 | 117,190 |
| <b>Total \$</b>            | 118,234 | 117,190 | 235,424 | 234,380 | 234,380 |

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

|                                  |                       |                  |
|----------------------------------|-----------------------|------------------|
| Legislative Contact:             | Phone:                | Date: 02/21/2003 |
| Agency Preparation: Vince Chavez | Phone: (360) 407-7544 | Date: 02/26/2003 |
| Agency Approval: Nancy Stevenson | Phone: (360) 407-7007 | Date: 02/26/2003 |
| OFM Review: Ann-Marie Sweeten    | Phone: 360-902-0538   | Date: 02/26/2003 |



Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Section 1 of the bill states, with certain limited exceptions, that all persons, whether government employees or private persons, would be made subject to the same restrictions with regard to entering upon the property of another. The bill's intent is to eliminate special immunities from prosecution for trespass, to make all persons subject to the same law (with exceptions from uniform application of that law only for the kinds of entries onto property by law enforcement officers and government personnel as specified in the bill).

Section 2(7) adds language to RCW 9A.52.010 to include the definition of 'Law enforcement officer'.

Section 2(8) adds language to RCW 9A.52.010 to include the definition of 'State public official or employee of the state'.

Sections 3(2) and 4(2) of the bill states that a public official or employee who enters and remains on another person's property has the right to remain in or upon premises:

- (a) When necessary to do so in response to a fire or a medical emergency;
- (b) When acting under authority of a warrant or other court order;
- (c) When the official or employee is a law enforcement officer entering or remaining under circumstances that are lawful as of the effective date of this act.
- (d) When the official or employee is acting under the express statutory authority granted to such official or employee elsewhere in this code to enter and remain in a building. Even if such express statutory authority exists, prior to carrying out the statutory purpose for which entry is made, the official or employee making such entry or someone on his or her behalf shall make a reasonable attempt to notify the owner of the building as to the purpose and need for the entry.

Section 3 of the bill makes all public officials, agents, or employees subject to the requirements outlined by RCW 9A.52.070 which states that a person is guilty of criminal trespass in the first degree if he or she knowingly enters or remains unlawfully in a building, unless the individual meets the exception criteria listed in sections 3(2) and 4(2).

Section 4 of the bill makes all public officials, agents, or employees subject to the requirements outlined by RCW 9A.52.080 which states that a person is guilty of criminal trespass in the second degree if he or she knowingly enters or remains unlawfully in or upon premises of another under circumstances not constituting criminal trespass in the first degree, unless the individual meets the exception criteria listed in sections 3(2) and 4(2).

Section 3(2) and 4(2) of the bill does not define public health and environmental emergency situations as included lawful exceptions. If the property owner where regulated activities take place, or land owner adjacent to the property, does not agree that lawful property access was indeed lawful, Ecology could be challenged for illegal trespass, thus exposing the Department and its employees to the unnecessary time and expense required to litigate the charges.

Background:

Under current law, Ecology employees are required to follow and have been trained in the requirements defined by Ecology's policy on Accessing Private Property. This policy requires employees to contact property owners prior to entering private property to conduct an inspection.

Under federal law, such as, Section 308 of the federal Clean Water Act (CWA), officials of federal environmental agencies have the authority upon presentation of his credentials to enter private property to conduct an inspection.

Under current law, Ecology requires that the department has right of access to private property for inspection purposes as defined as part of the permit agreement.

Assumptions:

Ecology would continue its practice of obtaining permission from the land owner before entering private property to conduct an inspection.

Ecology has authority under federal law, such as, (Section 308 of CWA) as a law enforcement authority, consistent with the exceptions listed in Section 2(3) of this bill.

Ecology has been delegated authority under federal law, such as, (Section 308 of CWA) to enter private property in response to an environmental emergency.

Despite Ecology's good-faith practices and authorities, this bill would result in increased litigation.

As a result of this bill, the need to obtain search warrants would be necessary. Ecology has authority under federal law, such as, (Section 308 of CWA) as a law enforcement authority, to obtain a search warrant from proper authorities to enter premises in order to carry out mandated federal regulations.

Based on conversations with the Office of the Attorney General, Ecology assumes 2 litigations per region per year (8 per year statewide) and 25 warrant issuances per year.

**II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

No fiscal impact.

**II. C - Expenditures**

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

**LITIGATION COSTS:**

Our assumption is that Ecology would anticipate an increase in litigation charges regarding access to private property. On this basis, Ecology assumes at a minimum of 8-litigations per year (Two litigations per year per region). Ecology estimates that it would need to expend approximately .06 FTE (Environmental Specialist 4) and .06 of an assistant attorney general to cover agency liability and associated costs. Estimates are as follows:

Attorney Time (hourly rate \$98 per hour – standard agency estimate)  
2 Hrs to answer the lawsuit  
20 Hrs for depositions  
20 Hrs for court reporter  
25 Hrs to prepare and file motions  
20 Hrs to respond to written discovery

Total AGO per action \$8,526 x 8 = \$68,208 Total AGO cost per year

Staff Time (.06 FTE per year – Environmental Specialist 4)  
20 Hrs per action to assist attorney, respond to discovery, give depositions, attend hearing x 8 = 160 hrs per yr  
Salaries and Wages are calculated at Range 55 Step K  
Travel expenditures are calculated at the agency average of \$1,461 per FTE per year (1,461 x .06 = \$88)  
Goods and Services are calculated at the agency average of \$3,690 per FTE per year (3,690 x .06 = \$221)  
Agency overhead (39.7% of direct salaries and benefits) approximately \$1,530 per year (3,854 x .397 = \$1,530)  
Equipment calculated at the agency average of \$5,801 per FTE for initial year only (5,801 x .06 = \$348)

Total Ecology cost per year = \$5,693

## WARRANT COSTS:

Our assumption is that Ecology would anticipate an issuance of 25 search warrants statewide per year to access private property. Ecology estimates that it would need to expend approximately .12 FTE (Environmental Specialist 4) and .12 of an assistant attorney general to cover warrant associated costs. Estimates are as follows:

Attorney Time (hourly rate \$98 per hour – standard agency estimate)

10 Hrs detail orientation and affidavit preparation

2 Hrs court time to obtain warrant

\$100 Supreme Court filing fee

Total AGO per action  $(\$1,176 + \$100) \times 25 = \$31,900$  Total AGO cost per year

Staff Time (.12 FTE per year – Environmental Specialist 4)

10 Hrs per action to assist attorney in detail orientation, and affidavit preparation  $\times 25 = 250$  hrs per yr

Salaries and Wages are calculated at Range 55 Step K

Travel expenditures are calculated at the agency average of \$1,461 per FTE per year  $(1,461 \times .12 = \$175)$

Goods and Services are calculated at the agency average of \$3,690 per FTE per year  $(3,690 \times .12 = \$443)$

Agency overhead (39.7% of direct salaries and benefits) approximately \$1,020 per year  $(7,710 \times .397 = \$3,061)$

Equipment calculated at the agency average of \$5,801 per FTE for initial year only  $(5,801 \times .12 = \$696)$

Total Ecology cost per year = \$11,389

### FTE Detail:

Salaries and Wages Detail: Direct program salaries are calculated at step K.

Employee Benefits for direct program staff are calculated at the agency average of 20.9% of salaries.

Goods and Services are calculated at the agency average of \$3,690 per direct FTE. Standard agency administrative overhead costs are also included.

Travel Expenditures are calculated at the agency average rate of \$1,461 per direct program FTE.

Equipment Detail: \$5,801 for start-up equipment is budgeted for each new direct FTE, based on current costs for an office chair, 1/5 motor pool vehicle, and basic computer equipment.

## Part III: Expenditure Detail

### III. A - Expenditures by Object Or Purpose

|                 | FY 2004   | FY 2005   | 2003-05   | 2005-07   | 2007-09   |
|-----------------|-----------|-----------|-----------|-----------|-----------|
| FTE Staff Years | 0.2       | 0.2       | 0.2       | 0.2       | 0.2       |
| A-              | 9.564     | 9,564     | 19,128    | 19,128    | 19,128    |
| B-              | 2.000     | 2,000     | 4,000     | 4,000     | 4,000     |
| C-              |           |           |           |           |           |
| E-              | 105.363   | 105,363   | 210,726   | 210,726   | 210,726   |
| G-              | 263       | 263       | 526       | 526       | 526       |
| J-              | 1.044     |           | 1,044     |           |           |
| N-              |           |           |           |           |           |
| P-              |           |           |           |           |           |
| S-              |           |           |           |           |           |
| <b>Total:</b>   | \$118,234 | \$117,190 | \$235,424 | \$234,380 | \$234,380 |

**III. B - Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

| Job Classification   | Salary | FY 2004 | FY 2005 | 2003-05 | 2005-07 | 2007-09 |
|----------------------|--------|---------|---------|---------|---------|---------|
| Environmental Spec 4 | 53,136 | 0.2     | 0.2     | 0.2     | 0.2     | 0.2     |
| <b>Total FTE's</b>   |        | 0.2     | 0.2     | 0.2     | 0.2     | 0.2     |

**Part IV: Capital Budget Impact**

**Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

|                                  |                                 |  |
|----------------------------------|---------------------------------|--|
| <b>Bill Number:</b> 5108 P 2S SB | <b>Title:</b> Criminal trespass | <b>Agency:</b> 477-Department of Fish and Wildlife |
|----------------------------------|---------------------------------|--|

## Part I: Estimates

☒ No Fiscal Impact

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

|                                      |                     |                  |
|--------------------------------------|---------------------|------------------|
| Legislative Contact:                 | Phone:              | Date: 02/21/2003 |
| Agency Preparation: Lembit Ratassepp | Phone: 360-902-2447 | Date: 02/24/2003 |
| Agency Approval: James Lux           | Phone: 360-902-2444 | Date: 02/26/2003 |
| OFM Review: Jim Skalski              | Phone: 360-902-0654 | Date: 02/26/2003 |

# Individual State Agency Fiscal Note

|                                  |                                 |  |
|----------------------------------|---------------------------------|--|
| <b>Bill Number:</b> 5108 P 2S SB | <b>Title:</b> Criminal trespass | <b>Agency:</b> 490-Department of Natural Resources |
|----------------------------------|---------------------------------|--|

## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

|                 |  |  |  |  |  |
|-----------------|--|--|--|--|--|
| <b>FUND</b>     |  |  |  |  |  |
|                 |  |  |  |  |  |
| <b>Total \$</b> |  |  |  |  |  |

### Estimated Expenditures from:

|  |         |         |         |         |         |
|--|---------|---------|---------|---------|---------|
|  | FY 2004 | FY 2005 | 2003-05 | 2005-07 | 2007-09 |
| FTE Staff Years  | 2.6     | 2.6     | 2.6     | 2.6     | 2.6     |
| <b>Fund</b>  |         |         |         |         |         |
| General Fund-State 001-1   | 132,000 | 132,000 | 264,000 | 264,000 | 264,000 |
| Resources Management Cost Account-State 041-1                    | 18,000  | 18,000  | 36,000  | 36,000  | 36,000  |
| Forest Fire Protection Assessment Account-Non-Appropriated 190-6 | 11,000  | 11,000  | 22,000  | 22,000  | 22,000  |
| <b>Total \$</b>  | 161,000 | 161,000 | 322,000 | 322,000 | 322,000 |

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

|                                 |                       |                  |
|---------------------------------|-----------------------|------------------|
| Legislative Contact:            | Phone:                | Date: 02/21/2003 |
| Agency Preparation: James Blake | Phone: (360) 902-1279 | Date: 02/27/2003 |
| Agency Approval: Pat McElroy    | Phone: (360) 902-1000 | Date: 02/28/2003 |
| OFM Review: Linda Steinmann     | Phone: 360-902-0573   | Date: 03/03/2003 |

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 1. Removes the special immunity from prosecution from trespass currently afforded to government officials. This requirement will increase the amount of time needed by department officials seeking permission to conduct inspections.

Section 2. Limits license afforded to the provider (DNR issues Forest Practices Permits, Burning Permits, Surface Mining Permits) to enter or remain on the portion of the property that pertains to a service, permit, certificate or license. This may preclude license to conduct inspections on operations where no permit was issued.

Section 4 allows state employees acting under express statutory authority to enter upon the premises of another only after making a reasonable attempt to notify the landowner of the reason and need for entry. The bill would require that any employee of the state obtain permission from the property owner or obtain a search warrant if unable to get permission from the property owner prior to entering onto private property or structures

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Coordinating the entry onto private property is already accomplished to a certain degree in the agency's Aquatic Resources science section, responsible for nearshore inventory and eelgrass studies. However, to meet the requirements of the proposed bill, staff time would increase by approximately 4 staff months, doubling the amount of time spent on notification now. The notification consists of letters written to property owners as well as phone calls to the owners that do not respond by mail. Each project run by the science section attempts to conduct sampling at roughly 500 sites to ensure a statistically valid sample which requires contacting the owners of all of those sites. By cutting down on the number of sample sites or limiting the sample sites to state-owned lands, the data produced would not be scientifically valid. The Science section usually operates 3 or 4 projects at any one time. It is estimated that this extra notification time would require 0.3 FTE per year of a Land Technician 2's time.

DNR processes approximately 6500 Forest Practices Applications per year (5 year average). The provisions included in this bill will result in the need for additional staff time to deal with seeking access permission for operations under permit. In addition, permission will be required to enter onto private land to inspect forest practices operations where no permit has been issued. The extra time needed for seeking these permissions is estimated to require 2 FTE's per year of a Forester 1's time.

Attempting to notify each landowner whose land we cross as part of our routine duties will require a additional time for field staff to identify whose land they may be crossing while accomplishing their duties and to make an attempt to contact the landowner. The extra time needed for these routine contacts is estimated to require 0.3 FTE's per year of a Forester 2's time.

Salaries and benefits are estimated at agency pay and benefit rates for the job classes mentioned.

Goods and services and travel costs are based on agency averages per FTE.

Intra-agency reimbursements are calculated at 19.3 percent of salaries, benefits, goods and services, and travel. This cost is added to cover agency administration. Although no administration staff will be added as a result of this bill, the prorated share of agency funds supporting these costs will increase.

## Part III: Expenditure Detail

### III. A - Expenditures by Object Or Purpose

|                                      | FY 2004          | FY 2005          | 2003-05          | 2005-07          | 2007-09          |
|--------------------------------------|------------------|------------------|------------------|------------------|------------------|
| FTE Staff Years                      | 2.6              | 2.6              | 2.6              | 2.6              | 2.6              |
| A-Salaries and Wages                 | 92,000           | 92,000           | 184,000          | 184,000          | 184,000          |
| B-Employee Benefits                  | 25,000           | 25,000           | 50,000           | 50,000           | 50,000           |
| C-Personal Service Contracts         |                  |                  |                  |                  |                  |
| E-Goods and Services                 | 7,000            | 7,000            | 14,000           | 14,000           | 14,000           |
| G-Travel                             | 11,000           | 11,000           | 22,000           | 22,000           | 22,000           |
| J-Capital Outlays                    |                  |                  |                  |                  |                  |
| M-Inter Agency/Fund Transfers        |                  |                  |                  |                  |                  |
| N-Grants, Benefits & Client Services |                  |                  |                  |                  |                  |
| P-Debt Service                       |                  |                  |                  |                  |                  |
| S-Interagency Reimbursements         |                  |                  |                  |                  |                  |
| T-Intra-Agency Reimbursements        | 26,000           | 26,000           | 52,000           | 52,000           | 52,000           |
| <b>Total:</b>                        | <b>\$161,000</b> | <b>\$161,000</b> | <b>\$322,000</b> | <b>\$322,000</b> | <b>\$322,000</b> |

### III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

| Job Classification | Salary | FY 2004    | FY 2005    | 2003-05    | 2005-07    | 2007-09    |
|--------------------|--------|------------|------------|------------|------------|------------|
| Forester 1         | 34,932 | 2.0        | 2.0        | 2.0        | 2.0        | 2.0        |
| Forester 2         | 39,492 | 0.3        | 0.3        | 0.3        | 0.3        | 0.3        |
| Land Technician 2  | 31,740 | 0.3        | 0.3        | 0.3        | 0.3        | 0.3        |
| <b>Total FTE's</b> |        | <b>2.6</b> | <b>2.6</b> | <b>2.6</b> | <b>2.6</b> | <b>2.6</b> |

## Part IV: Capital Budget Impact

## Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*



# Individual State Agency Fiscal Note

|                                  |                                 |  |
|----------------------------------|---------------------------------|--|
| <b>Bill Number:</b> 5108 P 2S SB | <b>Title:</b> Criminal trespass | <b>Agency:</b> 495-Department of Agriculture |
|----------------------------------|---------------------------------|--|

## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

|                 |  |  |  |  |  |
|-----------------|--|--|--|--|--|
| <b>FUND</b>     |  |  |  |  |  |
|                 |  |  |  |  |  |
| <b>Total \$</b> |  |  |  |  |  |

### Estimated Expenditures from:

|                          |         |         |         |         |         |
|--------------------------|---------|---------|---------|---------|---------|
|                          | FY 2004 | FY 2005 | 2003-05 | 2005-07 | 2007-09 |
| FTE Staff Years          | 1.0     | 1.0     | 1.0     | 1.0     | 1.0     |
| <b>Fund</b>              |         |         |         |         |         |
| General Fund-State 001-1 | 390,288 | 390,288 | 780,576 | 780,576 | 780,576 |
| <b>Total \$</b>          | 390,288 | 390,288 | 780,576 | 780,576 | 780,576 |

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

|                                 |                     |                  |
|---------------------------------|---------------------|------------------|
| Legislative Contact:            | Phone:              | Date: 02/21/2003 |
| Agency Preparation: Mary Toohey | Phone: 360-902-1907 | Date: 02/27/2003 |
| Agency Approval: Mark Johnson   | Phone: 360-902-1986 | Date: 02/28/2003 |
| OFM Review: Linda Steinmann     | Phone: 360-902-0573 | Date: 03/03/2003 |

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This bill applies to all activities and to all departments of state government, except for certain police, fire, and medical emergency situations, or when acting under authority of a warrant or other court order, or when acting under express statutory authority.

With certain exceptions for activities conducted on the property of people with whom WSDA has a licensing or certification relationship, the effect of the bill would be to make it mandatory for any employee to obtain specific, usually written, permission before conducting any activity on private property.

Impacts to WSDA programs are as follows:

The bill limits the ability of state veterinarians to enter property to examine livestock in cases where the owner is unknown or unavailable to give specific consent. Preventing WSDA from access after an unsuccessful, reasonable attempt to locate the owner during a suspected outbreak of an animal disease (such as foot and mouth disease of cattle or hogs or exotic Newcastle disease of chickens and other birds) would have a potentially devastating impact on the state's livestock industry. Delays in examination, diagnosis and/or treatment due to the necessity to pursue warrants in cases where the ownership of the animals is unclear or unknown could result in loss of control of an epidemic. In addition to immediate losses to affected livestock owners, resulting quarantines would greatly reduce the ability of state livestock and animal products (i.e. eggs) producers to market their products. The projected losses for animal disease outbreaks cannot be quantified with available information.

The bill limits access to private property to survey for exotic, non-native pests (e.g. insects, plant diseases, noxious weeds, and other pests). In cases where the owner is unknown or unavailable to give specific, written consent, the effect of the bill would be to make a warrant required. Pest surveys place approximately 30,000 traps every summer, at least half of which are located on private land. Many of these properties are in residential neighborhoods, where an estimated 75% of residents are not home during the day, making an independent process for obtaining consent necessary.

The department's apple maggot survey presents additional challenges. This survey is necessary to verify the apple maggot free status of the commercial apple production regions of eastern Washington. If the necessary survey cannot be performed to international standards, foreign governments will quarantine Washington fruit and mandate additional inspections of produce at the ports, reducing market access for the state's growers and slowing traffic through the ports. In order for a survey to be valid in urban areas such as Yakima and Ellensburg, apple maggot traps must be placed in each host species tree, making it necessary for WSDA personnel to access every residential yard. If denied access it may be impossible to conduct a viable apple maggot survey.

Another area of potential impact is that if an employee cannot prove specific permission, the employee is vulnerable to criminal trespass charges. If an employee is convicted, under some circumstances there may be grounds for the employee to sue the state for damages, particularly loss of income, as a criminal conviction would restrict the employee's future employment options. This increases the liability exposure of the state. We do not have adequate information to quantify this risk at this time.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

None

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

To conduct survey activities, we estimate 1 additional FTE (Survey Entomologist), \$5,000 travel per year and \$10,000 mailing and printing per year would be necessary to conduct the consent process. We estimate we would be able to obtain written consent from approximately 75% of the residents or landowners. In those cases where written consent could not be obtained, we assume we could move 50% of the trap locations to public rights of way and still maintain a viable pest survey program. This would leave 1,875 potential warrant properties. Each warrant costs \$110 filing fee and an average of \$50 per warrant of AAG time. (Costs for individual warrants are much higher. However, the economies of scale would reduce the attorney time per warrant.) The estimated warrant costs would be \$300,000.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

|                                      | FY 2004   | FY 2005   | 2003-05   | 2005-07   | 2007-09   |
|--------------------------------------|-----------|-----------|-----------|-----------|-----------|
| FTE Staff Years                      | 1.0       | 1.0       | 1.0       | 1.0       | 1.0       |
| A-Salaries and Wages                 | 34,932    | 34,932    | 69,864    | 69,864    | 69,864    |
| B-Employee Benefits                  | 9,781     | 9,781     | 19,562    | 19,562    | 19,562    |
| C-Personal Service Contracts         |           |           |           |           |           |
| E-Goods and Services                 | 310,000   | 310,000   | 620,000   | 620,000   | 620,000   |
| G-Travel                             | 5,000     | 5,000     | 10,000    | 10,000    | 10,000    |
| J-Capital Outlays                    |           |           |           |           |           |
| M-Inter Agency/Fund Transfers        |           |           |           |           |           |
| N-Grants, Benefits & Client Services |           |           |           |           |           |
| P-Debt Service                       |           |           |           |           |           |
| S-Interagency Reimbursements         |           |           |           |           |           |
| T-Intra-Agency Reimbursements        |           |           |           |           |           |
| 9-Administrative Costs @ 8.5%        | 30,575    | 30,575    | 61,150    | 61,150    | 61,150    |
| Total:                               | \$390,288 | \$390,288 | \$780,576 | \$780,576 | \$780,576 |

III. B - Detail: List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA

| Job Classification   | Salary | FY 2004 | FY 2005 | 2003-05 | 2005-07 | 2007-09 |
|----------------------|--------|---------|---------|---------|---------|---------|
| Entomologist, Survey | 34,932 | 1.0     | 1.0     | 1.0     | 1.0     | 1.0     |
| Total FTE's          |        | 1.0     | 1.0     | 1.0     | 1.0     | 1.0     |

Part IV: Capital Budget Impact

None

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

None