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FISCAL IMPACT REPORT

SPONSOR Smith DATE TYPED 2/04/05 HB _____

SHORT TITLE Crime of Obstruction of Property Owner SB 176

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See Narrative		

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General’s Office (AGO)
 Corrections Department (CD)
 Energy, Minerals & Natural Resources (EMNRD)
 Public Defender Department (PD)
 State Land Office (SLO)

SUMMARY

Synopsis of Bill

Senate Bill 176 creates the felony crime of Obstructing a Property Owner.

A person who obstructs a property owner from the lawful use of his property will be guilty of a fourth degree felony.

A person who participates in “animal or ecological terrorism by raising, soliciting, collecting or providing material support to obstruct a property owner” from the lawful use of his property will be similarly guilty of a fourth degree felony.

Significant Issues

The AGO notes that the American Legislative Exchange Counsel drafted an Animal and Ecological Terrorism Act (AETA) that apparently served as a model for this bill. The AETA, however, includes a definition and prohibited acts section that is not incorporated in this bill. The ex-

pansion of the current bill to more closely track the model legislation would make a constitutional challenge less likely.

The Commissioner and the SLO value the trust's agricultural lessees, recognizing that they bring revenue to the trust and provide needed stewardship of trust lands. Livestock grazing constitutes an important use of state trust land and is a continuing source of revenue for the beneficiaries of the state trust that could experience adverse effects from interference with agricultural operations

FISCAL IMPLICATIONS

SLO has some concern that the breath of the proposed law could be misconstrued to possibly criminalize existing, legitimate, coterminous activities on state trust land, such as fluid and hard-rock mineral leasing operations, railroads, power lines, and pipelines.

CD believes the provisions of this bill could increase costs to them as a result of the new crime. Because the crime being created is a felony, there is a significant likelihood of the violator being committed to CD. It is probable that more people will be placed on probation than incarcerated under this statute. However it is unlikely that there will be a large number of convictions under this statute

ADMINISTRATIVE IMPLICATIONS

Any litigation deriving from potential First Amendment challenges will be handled by the appropriate agencies with existing personnel.

OTHER SUBSTANTIVE ISSUES

The AGO states the 'prohibited acts' are to a large extent included under current criminal trespass and criminal damage to property statutes.

DW/sb