2009 Regular Legislative Session FISCAL ANALYSIS OF PROPOSED LEGISLATION Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: HB 3490 STATUS: Original

SUBJECT: Modifies the crime of theft if the first degree to include agricultural products under certain

circumstances.

GOVERNMENT UNIT AFFECTED: Department of Corrections, Oregon Judicial Department and

Public Defense Services Commission **PREPARED BY:** Tim Walker

REVIEWED BY: Doug Wilson and John Borden

DATE: May 22, 2009

2009-2011 2011-2013

EXPENDITURES:

See Analysis.

EFFECTIVE DATE: January 1, 2010

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

ANALYSIS: This bill adds the theft of agricultural property, over the value of \$100, to the list of crimes that qualify as theft in the first degree, a Class C felony. Under current practice, these crimes are charged as a Class A Misdemeanor. Agricultural property includes, but is not limited to, horticultural products, viticulture products, fruits, berries, vegetables, straw baled for market, and Christmas trees. Agricultural products do not include livestock.

This measure has an indeterminate impact due to the uncertainty of how many arrests will occur due to the provisions of this bill and in turn how many offenders may go to trial and ultimately be convicted and sentenced according to the provisions of this bill. Therefore, the agencies affected by this bill may require a budget adjustment, by the current Legislature, the Emergency Board, or a future Legislature, if the agency's budgeted resources prove insufficient to cover the actual cost of this measure.

The Criminal Justice Commission (CJC) estimates based on a limited amount of data, that 40 convictions per year will result from the provisions of this bill and if this is true, then the expected cost is as follows. Offenders convicted of theft 1, receive prison sentences approximately 20% of the time with a prison sentence of 16 months and the balance receive probation. The expected fiscal impact to Department of Corrections and Community Corrections, based on 40 convictions per year, is outlined below.

	Beds	Prison Cost	Probation Cost	Post Prison Supervision	Total
2009-11	3	\$186,721	\$78,959	\$0	\$265,680
2011-13	11	\$598,985	\$282,939	\$65,017	\$946,941
2013-15	11	\$598,985	\$282,939	\$71,273	\$953,197

The Oregon Judicial Department reports that court costs associated with a felony trial are \$344 more than the costs associated with a misdemeanor trial. The Public Defense Service Commission reports that it

costs \$167 more to defend a Class C felony than it does a misdemeanor. It is not known how may trials it would take to result in 40 convictions and due to the increased sanctions, it is not known how many offenders may choose a trial or a plea to a lesser crime.