STATE OF CALIFORNIA
Franchise Tax Board

Summary Analysis of Amended Bill

Author: Caballero, et al.	Sponsor:	Bill Number: AB 2166
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Subject: Agriculture Development Credit

Summary

This bill, under the Food and Agriculture Code (FAC), would create the Agriculture Technology Innovation Institute, and, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), would create a credit for agricultural technology deployment.

This analysis only addresses the provisions of the bill that impact the department's programs and operations.

Recommendation – No position.

Summary of Amendments

The April 16, 2018, amendments added a coauthor, made a nonsubstantive change to a definition, and made other changes under the FAC that would not impact the tax credit.

The April 26, 2018, amendments made changes under the Education Code and the FAC that would not impact the tax credit.

The May 9, 2018, amendments added a coauthor, modified the definition of "agricultural technology," modified the credit certification, and made other changes to the proposed credit as discussed in this analysis.

As a result of the amendments, the department's implementation consideration and two of the policy concerns discussed in the department's analysis of the bill as introduced February 12, 2018, and amended March 14, 2018, and April 2, 2018, were resolved, and three new implementation considerations and two new technical considerations were identified. Except for the "This Bill," "Implementation Considerations," "Technical Considerations," "Economic Impact," and "Policy Concerns" sections, the remainder of the department's analysis of the bill as introduced February 12, 2018, and amended March 14, 2018, and April 2, 2018, still applies. The "Fiscal Impact" section has been restated below for convenience.

This Bill

For each taxable year beginning on or after January 1, 2020, and before January 1, 2025, this bill, under the PITL and CTL, would allow a credit for each acre within this state on which agricultural technology is deployed during the taxable year for at least three consecutive months, in an amount determined as follows:

- For tier 1 farms, which are farms less than 100 acres in size, fifty dollars ($50), up to a total credit amount of four thousand nine hundred fifty dollars ($4,950) per taxpayer per taxable year.
- For tier 2 farms, which are farms at least 100 acres but less than 500 acres in size, forty dollars ($40), up to a total credit amount of nineteen thousand nine hundred sixty dollars ($19,960) per taxpayer per taxable year.
- For tier 3 farms, which are farms at least 500 acres but less than 1,000 acres in size, thirty dollars ($30), up to a total credit amount of twenty-nine thousand nine hundred seventy dollars ($29,970) per taxpayer per taxable year.
- For tier 4 farms, which are farms at least 1,000 acres but less than 2,000 acres in size, twenty dollars ($20), up to a total credit amount of thirty-nine thousand nine hundred eighty dollars ($39,980) per taxpayer per taxable year.
- For tier 5 farms, which are farms of 2,000 or more acres in size, ten dollars ($10), up to a total credit amount of fifty thousand dollars ($50,000) per taxpayer per taxable year.

The bill would require that any deduction otherwise allowed for expenses included in the determination of the credit be reduced by the amount of credit claimed.

Under the FAC, the Agriculture Technology Innovation Institute (Institute) would be responsible for the administration of the credit this bill would establish.

This bill would define the following terms and phrases:

- "Agricultural technology," defined by reference to Section 25.3 of the FAC, created by this bill, means technology that does any of the following:
  - Improves the efficiency of water, energy, fertilizer, or pesticide use.
  - Increases the effectiveness of greenhouse gas reduction or resource sustainability practices.
  - Automates a part of the farming process to make farm labor more efficient.
- "Institute" means the Agriculture Technology Innovation Institute created by this bill.

This bill, under the PITL and the CTL, would require the Institute to provide a certificate to a taxpayer who confirms all of the following:

- The deployment of agricultural technology for at least three consecutive months.

- Paying or incurring expenses, during the 12 months immediately preceding the taxpayer's application for certification, for the agricultural technology deployed, as required.
- One or both of the following:
  - An improvement of efficiency in water, energy, fertilizer, or pesticide use, or an increase in the effectiveness of greenhouse gas reduction or resource sustainability practices, in the business operations of the taxpayer, resulting from the deployment of the agricultural technology, demonstrated through metering, bill statements, or business logs or records.

An increase in farm labor efficiency demonstrated by subtracting the quotient of the crop yield divided by hours of work performed before the agricultural technology was deployed from the quotient of the crop yield divided by hours of work performed after that agricultural technology was deployed. A certificate provided by the Institute would include all of the following:

- The taxpayer's name.
- The address of the farm on which the agricultural technology has been deployed.
- The taxpayer's social security number or taxpayer identification number.
- The amount of the credit claimed.
- The date of certification.

The Institute would be required to annually provide the Franchise Tax Board (FTB), by a date determined by the FTB, a copy of each certificate provided by the Institute for the preceding calendar year.

Unused credits could be carried over for five years until exhausted.

The credit would be repealed by its own terms on December 31, 2031.

This bill would express legislative intent to comply with Revenue and Taxation Code (R&TC) section 41 requiring new legislation which creates a new tax credit to include specific goals, purposes, objectives, and performance measures to allow the Legislature to evaluate the credit's effectiveness.

Implementation Considerations

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional concerns may be identified as the bill moves through the legislative process. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

The bill is silent on who would be allowed the credit. Generally a certified credit is limited to taxpayers that receive a certificate. For clarity, the author may wish to amend this bill.

The credit amount would be based on acreage irrespective of the cost of the agricultural technology deployed. For example, the credit amount would be $4,950 (99 acres x $50 per acre) for a taxpayer with a 99 acre farm (tier 1 farm) that is otherwise eligible for the credit. If this is contrary to the author's intent, the bill should be amended.

Because the bill fails to specify otherwise, discrepancies between the credit reported on a return and the amount certified by the Institute would be considered deficiency assessments subject to protest and appeal rights. Generally, credits certified by another agency are adjusted as math errors under R&TC section 19051.

Technical Considerations

Retaining credit language in statute through the carryover period is unnecessary because existing state law provides this general rule. A repeal date of December 1, 2025, would address this concern.

To clearly reflect the credit amount allowed by the Institute, the term “claimed” should be replaced with “allowed”:

- On page 8, line 37, and on page 11, line 11.
- On page 9, line 36, and on page 12, line 8.

Fiscal Impact

The department’s costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified.

Economic Impact

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 2166 as Amended May 09, 2018
Assumed Enactment after June 30, 2018

($ in Millions)

Fiscal Year	Revenue
2018-2019	n/a
2019-2020	- $65
2020-2021	- $130

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

Revenue Discussion

The revenue impact of the bill would depend on the size of California farms and the number of acres on which farmers would implement the agricultural technologies specified in this bill. Since the amount of the credit is not determined by the implementation cost of the technology, the estimate assumes the credit would provide a very strong incentive for farmers to implement new agricultural technology and almost all would attempt some improvements.

Based upon farm size data from the United States Department of Agriculture, there are approximately 26 million acres of farmland in California. The estimate assumes that the certification requirements would reduce those who qualify for the credit by 30 percent. It is further assumed that 80 percent of farmers would learn of the credit in the first year and 95 percent in the subsequent five years. Using the credit amount and maximum amount per farm “tier” size specified in the bill, there would be an estimated $290 million in credits generated in the 2020 taxable year. Based upon the FTB tax data for farms, it is estimated that 65 percent of taxpayers would have sufficient tax liability to claim the credit. For those taxpayers, 70 percent, or $130 million, would be used in the 2020 taxable year. The remaining credit would be utilized over the next three years.

To arrive at the offsetting deduction that would otherwise be allowed under current law, it is estimated that taxpayer’s would incur qualified expense that are at least equal to the amount of credit claimed, or $130 million, multiplied by the average tax rate of 6 percent, results in an estimated offsetting revenue gain of $7.6 million in taxable year 2020. This results in an estimated net revenue loss of $120 million in taxable year 2020.

The tax-year estimates are converted to fiscal-year estimates and rounded to arrive at the amounts shown in the above table.

Policy Concerns

This bill would allow tax credits for activities that are required by existing state and federal laws or regulations. For example, this bill would allow a credit based on an increase in the effectiveness of greenhouse gas reduction; however, California law (AB 32 and similar laws) currently restricts such emissions.

This bill would allow taxpayers in certain circumstances to claim multiple tax benefits for the same item of expense because the bill fails to disallow or reduce credits based on the same expenses that would generate this credit.

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