

[JOINT COMMITTEE PRINT]

**DESCRIPTION OF ENERGY AND
AGRICULTURAL TAX CREDIT BILLS
(S. 329, S. 569, and S. 1561)**

SCHEDULED FOR A HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND AGRICULTURAL
TAXATION

OF THE

COMMITTEE ON FINANCE

ON OCTOBER 23, 1981

PREPARED FOR THE USE OF THE
COMMITTEE ON FINANCE
BY THE STAFF OF THE
JOINT COMMITTEE ON TAXATION



OCTOBER 21, 1981

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON: 1981

85-335 O

JCS-60-81

CONTENTS

	Page
Introduction.....	1
I. Summary.....	3
II. Description of Bills.....	5
1. S. 329 (Senators Pell, et al.): Tax credit for home heating costs.....	5
2. S. 569 (Senators Jepsen, Baucus, Heinz, et al.) and S. 1561 (Senator Grassley): Tax credits for soil and water conservation.....	8

INTRODUCTION

The bills described in this pamphlet have been scheduled for a public hearing on October 23, 1981, by the Subcommittee on Energy and Agricultural Taxation of the Senate Finance Committee.

There are three bills scheduled for the hearing: S. 329 (relating to tax credits based on home heating costs) and S. 569 and S. 1561 (relating to tax credits for soil and water conservation expenditures).

The first part of this pamphlet contains a summary of the bills. This part is followed by a more detailed description of each bill, including present law, issues, an explanation of the provisions of each bill, their effective dates, and estimated revenue effects.

I. SUMMARY

1. S. 329—Senator Pell, et al.

Tax Credit for Home Heating Costs

Present law contains no tax credit based on home heating costs. Under the bill, qualifying individuals would be permitted a non-refundable tax credit for certain amounts paid or incurred for any qualified home heating energy source. The amount of the credit would be equal to the amount paid or incurred for qualified home heating energy sources, multiplied by 12.6 percent or the preceding calendar year's change in the consumer price index, plus a factor related to the difference in degree days between the most recent winter and the preceding winter. In general, the credit would be limited to \$300 (\$150 in the case of married individuals filing separately) and would be phased out for individuals with income above \$30,000 (\$15,000 in the case of married individuals filing separately).

2. S. 569—Senators Jepsen, Baucus, Heinz, et al., and S. 1561—Senator Grassley

Tax Credits for Soil and Water Conservation

Present law permits farmers to deduct in the current tax year certain capital expenditures for soil and water conservation (sec. 175).

S. 569 would make certain expenditures for soil and water conservation on farm land eligible for the regular 10-percent investment credit. Amounts eligible for the investment credit would include soil and water conservation expenditures within the meaning of section 175(c) that the taxpayer does not elect to expense under section 175. The provisions of the bill would apply to soil and water conservation expenditures made in taxable years beginning after December 31, 1980.

Under S. 1561, a 20-percent tax credit would be allowed for land conservation expenditures incurred with respect to farm land held by the taxpayer. Such expenditures would include soil and water conservation expenditures described in section 175(c) and land conservation expenditures for depreciable property, which may also qualify for the regular investment credit. It is understood that expenditures that the taxpayer elects to expense under section 175, and expenditures for which a current deduction is otherwise allowable would not qualify as land conservation expenditures. The credit would be available for expenditures made in taxable years beginning after December 31, 1981.

II. DESCRIPTION OF BILLS

1. S. 329—Senator Pell, et al.

Tax Credit for Home Heating Costs

Present Law

Under present law, there is no general provision which permits tax credits for home heating costs.

Issue

The issue is whether a credit should be permitted for certain qualified home heating costs.

Explanation of the Bill

The bill provides a nonrefundable tax credit for certain amounts paid for qualified home heating energy sources. Under the bill, the amount of the credit would be equal to the sum of (1) the amount paid or incurred during the taxable year for all qualified home heating energy sources multiplied by the greater of 12.6 percent or the percentage charge in the CPI during the taxable year and (2) the degree day factor for such taxable year. The bill defines the degree day factor to be the amount by which the number of degree days in the calendar year immediately preceding such taxable year exceeds the number of degree days in the second preceding calendar year.

The amount of the credit is subject to a number of limitations. First, the maximum amount of the credit may not exceed \$300. For this purpose, married individuals filing a joint return are treated as a single individual; married taxpayers filing separately are each subject to a maximum limitation of \$150. Second, the maximum amount is reduced by 10 percent of the amount by which the taxpayer's adjusted gross income exceeds \$30,000 (\$15,000 in the case of a married individual filing separately). Thus, no credit would be allowed to a taxpayer whose adjusted gross income is at least \$33,000 (\$16,500 in the case of a married individual filing separately). Third, the amount of the credit is further reduced by any amounts received for any qualified home heating energy source under any Federal, State, or local program. Fourth, the credit is nonrefundable, and no carrybacks or carryovers of excess credits are allowed.

The credit is available only to one individual in each household. That individual is the person in the household who furnished a portion (whether or not more than half) of the cost of maintaining the household greater than the portion furnished by any other member of the household. This rule is to apply even if another member of the household actually paid the heating bills. The individual in the household who is eligible for the credit is deemed to have paid all the costs of

heating the household which were paid by the taxpayer and all the other members of the household.¹

Under the bill, special rules are provided to permit allocation of the credit to tenants (other than tenant-stockholders in a cooperative housing association) who do not pay separately for heating. These rules attribute a portion of the rent to heating costs on the basis of regional differences in heating costs and climate. In addition, the bill authorizes the Secretary to promulgate regulations to apply the credit to condominium management associations (as defined in section 528 (c) (1) or members thereof and tenant-stockholders in cooperative housing corporations (as defined in section 216) so that the credit is allowed to the individuals paying, directly or indirectly, for the qualified home heating fuel so used.

The credit would be permitted for amounts expended for qualified home heating energy source, defined as an energy source (including wood) used for the purpose of heating the taxpayer's principal residence located in the United States. The determination of whether a dwelling unit is the taxpayer's principal residence would be made under principles similar to those of section 1034, except that (a) no ownership requirement would be imposed and (b) the principal residence must actually be used by the taxpayer as his residence during the taxable year. Thus, if part of a property were used for residential purposes and part were used for business or other purposes, only the heating costs allocable to residential purposes would be eligible for the credit. Also, no credit would be allowed to the taxpayer for any period during which the taxpayer rents his residence to another individual.

Effective Date

The credit would apply with respect to taxable years beginning after December 31, 1980, and before January 1, 1985.

Revenue Effect

It is estimated that this bill would reduce budget receipts by \$2,911 million in fiscal year 1982, by \$5,985 million in 1983, by \$4,379 million in 1984 and by \$4,118 million in 1985. These estimates reflect the most recent information available on long-term regional climatic patterns. Actual changes in receipts could vary substantially.

Prior Congressional Action

A similar provision was included in H.R. 3919 (96th Congress) as reported by the Finance Committee (S. Rep. 96-394) and passed by the Senate on December 17, 1979. That provision was not agreed to in the conference on H.R. 3919.

In addition, during consideration by the Senate of the Economic Recovery Tax Act of 1981, a similar proposal sponsored by Senator Rudman (unprinted amendment No. 322, July 28, 1981) was agreed to by roll call vote of 71-25. That amendment would have provided a credit equal to the amount paid or incurred during the taxable year

¹ Because the credit is only available to one individual per household, the lower limits applicable to married individuals filing separately would reduce the aggregate credit available to separate filers who live in the same household by half.

for all qualified home heating energy sources, multiplied by an amount equal to 40 percent of the change in the consumer price index for the year preceding such expenditure. The change would have been computed by comparing the price index as of the December immediately preceding the year of the deduction over that index for December of the second preceding calendar year.

Under that amendment, the credit would have been limited to any excess of \$200 (\$150 in the case of married individuals filing separately) over two percent of the amount of the taxpayer's adjusted gross income in excess of \$15,000 (\$12,500 in the case of married individuals filing separately). The credit would have been further reduced by any home heating energy source grants received under any Federal, State, or local program. The amendment was not agreed to in the conference on the Act.

2. S. 569—Senators Jepsen, Baucus, Heinz, et al.
and S. 1561—Senator Grassley

Tax Credits for Soil and Water Conservation

Present Law

Under present law, a farmer can elect to deduct certain capital expenditures for the purpose of soil or water conservation (sec. 175). Such expenditures include amounts paid for items such as grading, terracing, and contour furrowing, the construction of drainage ditches, irrigation ditches, dams and ponds, and the planting of wind breaks. Also included are assessments levied by a soil or water conservation drainage district to the extent those expenditures would constitute deductible expenditures if paid directly by the farmer.

The cost of acquiring or constructing machinery or facilities that are depreciable may not be expensed. In the case of depreciable items such as irrigation pumps, concrete dams, or concrete ditches, the farmer is allowed deductions only through the depreciation allowances and only if he owns the asset. Certain depreciable assets are eligible for the regular 10-percent investment credit.

Certain costs incurred in connection with water and soil conservation are deductible as trade or business expenses without regard to section 175. Thus, interest expenses and property taxes are deductible as current expenses. Similarly, the cost of repairs to a completed soil or water conservation structure are deductible as current expenses. Amounts paid or incurred primarily to produce an agricultural crop are deductible expenses (see sec. 180), but are not treated as soil or conservation expenditures under section 175, even though such expenditures may incidentally conserve soil.

The deduction for soil and water conservation expenditures under section 175 is limited in any one year to 25 percent of the gross income derived by the taxpayer from farming. Any excess amount is carried forward to succeeding taxable years.

Issue

The issue is whether additional financial incentives should be provided in the form of tax credits to encourage farmers to conserve soil and water.

Explanations of the Bills

S. 569

Under S. 569, certain soil and water conservation expenditures would be made eligible for the regular 10-percent investment credit. Eligible soil and water conservation expenditures would be soil and water conservation expenditures within the meaning of section 175 (c) that the taxpayer would not elect to expense under section 175. Thus, the taxpayer would not treat amounts expended for the pur-

chase, construction, improvement, or installation of depreciable property as eligible soil or water conservation expenditures, but such property would continue to be eligible for the investment credit to the extent allowed under present law. In addition, amounts expended for soil or water conservation that the taxpayer elects to expense under section 175 would not be soil or water conservation expenditures eligible for the investment credit under the bill.

S. 1561

Under S. 1561, a 20-percent tax credit would be allowed for qualified land conservation expenditures. The credit would be available for taxpayers making qualified conservation expenditures with respect to farm land located in the United States and held by the taxpayer. Thus, expenditures made by a tenant would not qualify for the credit. Farm land would include land used for the production of crops, fruits, or other agricultural products, or for the sustenance of livestock. Soil and water conservation expenditures for the same type of land also are the expenditures that the taxpayer may elect to expense under section 175.

Qualified land conservation expenditures would be defined to include any amount paid or incurred for purposes of soil conservation, prevention of soil erosion, or the reduction or control of agriculture-related pollution. In addition, qualified land conservation expenditures would include amounts paid or incurred for the treatment or moving of earth, including (but not limited to) leveling, grading, and terracing, contour furrowing, the construction, control, and protection of diversion channels, drainage ditches, earthen dams, water courses, outlets, and ponds, the eradication of brush, and the planting of wind breaks.

It is understood that qualified expenditures would not include expenditures the taxpayer elects to expense under section 175 or expenditures for which a current deduction is otherwise allowable, e.g., repairs to land conservation appliances or structures. Qualified expenditures would include expenditures for the purchase, construction, installation, or improvement of structures, appliances, and facilities that are depreciable property, some of which are also eligible for the regular 10-percent investment tax credit.

The 20-percent land conservation tax credit would be applied against the taxpayer's tax liability for the taxable year, reduced by the sum of other allowable credits except the credits allowable by sections 31, 39, and 43. If the amount of credit allowable for a taxable year exceeds this limitation, the amount of the excess would be added to the credit allowable for the succeeding taxable year.

If the taxpayer either disposes of land or ceases to use land for farming, any land conservation credits allowed with respect to such land within the 3 taxable years preceding the taxable year of such disposition or changed use would be recaptured. To the extent such credits had been applied against prior tax liabilities, the amount of the recaptured credit would be an increase in tax for the taxable year of the disposition or changed use. To the extent such credits had not been applied against prior tax liabilities, the amount of the recaptured credit would reduce the amount of credits carried over to the taxable

year of disposition or change in use. No credits could be applied against any increase in tax that resulted from the recapture of land conservation credits.

The credit recapture rules would not apply to dispositions of land if such land was transferred by reason of death or was transferred in a transaction to which section 381(a) applies. In addition, a taxpayer would not be considered to have disposed of land if the taxpayer merely changes the form in which he conducts business, but only so long as the land is retained in the trade or business and the taxpayer retains a substantial interest in the trade or business.

Effective Dates

The provisions of S. 569 would apply to taxable years beginning after December 31, 1980.

The provisions of S. 1561 would apply to taxable years beginning after December 31, 1981.

Revenue Effect

It is estimated that S. 569 would reduce budget receipts by \$34 million in fiscal year 1982, \$27 million in 1983, \$30 million in 1984, \$31 million in 1985, and \$34 million in 1986.

The revenue estimate for S. 1561 is not yet available.

