

117TH CONGRESS
1ST SESSION

H. R. 5438

To provide incentives for the purchase of water-efficient products, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 30, 2021

Mr. CARTWRIGHT (for himself, Mr. BLUMENAUER, Ms. BROWNLEY, Mr. CONNOLLY, Ms. ESHOO, Mr. EVANS, Mr. GARCÍA of Illinois, Mr. HUFFMAN, Mr. KHANNA, Mr. LOWENTHAL, Ms. NORTON, Ms. PINGREE, Mr. RASKIN, Mr. TAKANO, Ms. VELÁZQUEZ, and Mr. WELCH) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Oversight and Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide incentives for the purchase of water-efficient products, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Water Advanced Tech-
5 nologies for Efficient Resource Use Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Environ-
3 mental Protection Agency.

4 (2) AGENCY.—The term “agency” has the
5 meaning given such term in section 7902(a) of title
6 5, United States Code.

7 (3) COVERED CONSUMER.—The term “covered
8 consumer” means an individual served by an eligible
9 entity.

10 (4) ELIGIBLE ENTITY.—The term “eligible enti-
11 ty” means—

12 (A) a State, local, or Tribal government;

13 (B) a drinking water utility or wastewater
14 utility;

15 (C) a municipal water authority or a re-
16 gional water authority; or

17 (D) a nonprofit organization.

18 (5) INCENTIVE.—The term “incentive” in-
19 cludes—

20 (A) rebates, vouchers, and other financial
21 incentives; and

22 (B) the direct installation of a WaterSense
23 product.

(6) NONPROFIT ORGANIZATION.—The term “nonprofit organization” means an organization that—

(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)); and

(B) is exempt from taxation under section 501(a) of such Code.

(7) PRODUCT.—The term “product” means a product, building, landscape, facility, process, or service.

(8) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(9) WATERSENSE PRODUCT.—The term “WaterSense product” means a product that is certified to display the WaterSense label under the WaterSense program established under section 324B of the Energy Policy and Conservation Act (42 U.S.C. 6294b).

SEC. 3. FEDERAL PROCUREMENT OF WATERSENSE PRODUCTS.

(a) PROCUREMENT.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), in procuring any water-consuming prod-
3 uct, the head of an agency shall procure a
4 WaterSense product.

5 (2) EXCEPTIONS.—Paragraph (1) does not
6 apply if—

7 (A) with respect to the type of water-con-
8 suming product being procured, the head of an
9 agency finds, in writing, that—

10 (i) no WaterSense product is cost-ef-
11 fective over the life of such type of prod-
12 uct, taking current and future water and
13 wastewater cost savings into account; or

14 (ii) no WaterSense product of such
15 type is reasonably available to meet the
16 functional requirements of the agency; or

17 (B) the water-consuming product being
18 procured is designed for use in combat or com-
19 bat-related missions.

20 (b) INSTALLATION AND MAINTENANCE.—As applica-
21 ble, the head of an agency that procures a WaterSense
22 product under subsection (a)(1) shall use a certified pro-
23 fessional (including a licensed plumber or a licensed me-
24 chanical contractor, as appropriate) to install and main-
25 tain such product.

1 (c) MEASURES TO REDUCE WATER CONSUMP-
2 TION.—The head of each agency shall consider adopting
3 measures to reduce agency water consumption, including
4 such measures as the use of—

5 (1) water reuse, reclamation, or recycling tech-
6 nology;

7 (2) water leak detection technology; and

8 (3) products that—

9 (A) do not consume water; and

10 (B) perform similar functions as com-
11 parable water-consuming products.

12 (d) LISTING OF WATERSENSE PRODUCTS.—The Ad-
13 ministrator of General Services shall clearly identify and
14 prominently display, in a listing of water-consuming prod-
15 ucts, WaterSense products.

16 (e) REGULATIONS.—Not later than 180 days after
17 the date of enactment of this section, the Administrator
18 of the Environmental Protection Agency and the Director
19 of the Office of Management and Budget shall issue regu-
20 lations to carry out this section.

21 **SEC. 4. INCENTIVES FOR THE PURCHASE OF WATERSENSE**
22 **PRODUCTS.**

23 (a) ESTABLISHMENT.—The Administrator shall es-
24 tablish a program to provide grants to eligible entities to

1 provide incentives to covered consumers for the purchase
2 of a WaterSense product.

3 (b) ELIGIBILITY.—To be eligible to receive a grant
4 under this section, an eligible entity shall—

5 (1) submit an application to the Administrator
6 at such time, in such form, and containing such in-
7 formation as the Administrator may require; and

8 (2) provide assurances, which the Administrator
9 determines are satisfactory, that the eligible entity
10 will use such grant to supplement, but not supplant,
11 other incentives that are available to a covered con-
12 sumer for the purchase of a WaterSense product.

13 (c) EVALUATION CRITERIA FOR APPLICATIONS.—

14 (1) IN GENERAL.—In evaluating an application
15 submitted under subsection (b)(1), the Adminis-
16 trator shall consider—

17 (A) the estimated effect of providing incen-
18 tives;

19 (B) if the eligible entity previously received
20 a grant under this section—

21 (i) the degree to which the use of such
22 grant encouraged the purchase of
23 WaterSense products; and

24 (ii) whether there are amounts of such
25 grant that remain unused; and

1 (C) whether the eligible entity promotes or
2 implements a program to recycle or manage the
3 disposal of any products that are replaced as a
4 result of the provision of incentives under this
5 section.

6 (2) PRIORITY.—The Administrator shall
7 prioritize providing grants under this section to eligi-
8 ble entities that will provide incentives to low- and
9 middle-income households.

10 (d) USE OF GRANT.—

11 (1) IN GENERAL.—An eligible entity that re-
12 ceives a grant under this section shall—

13 (A) use such grant to provide incentives to
14 covered consumers that purchase a WaterSense
15 product; or

16 (B) with approval from the Administrator,
17 provide some, or all, of such grant to another
18 eligible entity for use in accordance with sub-
19 paragraph (A).

20 (2) ADMINISTRATIVE COSTS.—Not more than
21 50 percent of each grant provided under this section
22 may be used to pay for the administrative cost of
23 providing incentives in accordance with paragraph
24 (1).

1 (3) INCENTIVE AMOUNTS.—With respect to re-
2 bates, vouchers, and other such financial incentives,
3 an eligible entity shall determine the amount to pro-
4 vide based on the following:

5 (A) The amount of the grant provided to
6 the eligible entity under this section.

7 (B) The amount of any other incentives
8 that are available to a covered consumer for the
9 purchase of a WaterSense product.

10 (C) The estimated amount necessary to en-
11 courage a covered consumer to purchase a
12 WaterSense product.

13 (D) As applicable, the costs to a covered
14 consumer for onsite preparation, assembly, and
15 installation of a WaterSense product.

16 (e) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to carry out this sec-
18 tion—

- 19 (1) \$50,000,000 for fiscal year 2022;
20 (2) \$100,000,000 for fiscal year 2023;
21 (3) \$150,000,000 for fiscal year 2024;
22 (4) \$100,000,000 for fiscal year 2025; and
23 (5) \$50,000,000 for fiscal year 2026.

1 **SEC. 5. EXCLUSION FROM GROSS INCOME OF AMOUNTS RE-**
 2 **CEIVED AS INCENTIVES FOR THE PURCHASE**
 3 **OF WATERSENSE PRODUCTS.**

4 (a) IN GENERAL.—Part III of subchapter B of chap-
 5 ter 1 of the Internal Revenue Code of 1986 is amended
 6 by inserting before section 140 the following new section:

7 **“SEC. 139I. INCENTIVES FOR THE PURCHASE OF**
 8 **WATERSENSE PRODUCTS.**

9 “(a) IN GENERAL.—In the case of an individual,
 10 gross income does not include any amount received as an
 11 incentive under section 3 of the Water Advanced Tech-
 12 nologies for Efficient Resource Use Act of 2021.

13 “(b) DENIAL OF DOUBLE BENEFIT.—

14 “(1) DEDUCTIONS AND CREDITS.—No deduc-
 15 tion or credit under this subtitle shall be allowed for
 16 any expenditure with respect to which any amount
 17 excluded under subsection (a) was provided.

18 “(2) BASIS ADJUSTMENT.—The adjusted basis
 19 of any property with respect to which an amount ex-
 20 cluded under subsection (a) is provided shall be re-
 21 duced by the amount so excluded.”.

22 (b) CONFORMING AMENDMENT.—The table of sec-
 23 tions for part III of subchapter B of chapter 1 of such
 24 Code is amended by inserting before the item relating to
 25 section 140 the following new item:

“Sec. 139I. Incentives for the purchase of WaterSense products.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this section.

4 **SEC. 6. MODIFICATIONS TO INCOME EXCLUSION FOR CON-**
5 **SERVATION SUBSIDIES.**

6 (a) IN GENERAL.—Subsection (a) of section 136 of
7 the Internal Revenue Code of 1986 is amended—

8 (1) by striking “any subsidy provided” and in-
9 serting “any subsidy—

10 “(1) provided”,

11 (2) by striking the period at the end and insert-
12 ing a comma, and

13 (3) by adding at the end the following new
14 paragraphs:

15 “(2) provided (directly or indirectly) by a public
16 utility to a customer, or by a State or local govern-
17 ment to a resident of such State or locality, for the
18 purchase or installation of any water conservation or
19 efficiency measure, or

20 “(3) provided (directly or indirectly) by a storm
21 water management provider to a customer, or by a
22 State or local government to a resident of such State
23 or locality, for the purchase or installation of any
24 storm water management measure.”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) DEFINITION OF WATER CONSERVATION OR
2 EFFICIENCY MEASURE AND STORM WATER MANAGE-
3 MENT MEASURE.—Section 136(c) of the Internal
4 Revenue Code of 1986 is amended—

5 (A) by striking “ENERGY CONSERVATION
6 MEASURE” in the heading thereof and inserting
7 “DEFINITIONS”,

8 (B) by striking “IN GENERAL” in the
9 heading of paragraph (1) and inserting “EN-
10 ERGY CONSERVATION MEASURE”, and

11 (C) by redesignating paragraph (2) as
12 paragraph (4) and by inserting after paragraph
13 (1) the following:

14 “(2) WATER CONSERVATION OR EFFICIENCY
15 MEASURE.—For purposes of this section, the term
16 ‘water conservation or efficiency measure’ means any
17 evaluation of water use, or any installation or modi-
18 fication of property, the primary purpose of which is
19 to reduce consumption of water or to improve the
20 management of water demand with respect to one or
21 more dwelling units.

22 “(3) STORM WATER MANAGEMENT MEASURE.—
23 For purposes of this section, the term ‘storm water
24 management measure’ means any installation or
25 modification of property primarily designed to re-

duce or manage amounts of storm water with respect to one or more dwelling units.”.

(2) DEFINITION OF PUBLIC UTILITY.—Section 136(c)(4) of such Code (as redesignated by paragraph (1)(C)) is amended by striking subparagraph (B) and inserting the following:

“(B) PUBLIC UTILITY.—The term ‘public utility’ means a person engaged in the sale of electricity, natural gas, or water to residential, commercial, or industrial customers for use by such customers.

“(C) STORM WATER MANAGEMENT PROVIDER.—The term ‘storm water management provider’ means a person engaged in the provision of storm water management measures to the public.

“(D) PERSON.—For purposes of subparagraphs (B) and (C), the term ‘person’ includes the Federal Government, a State or local government or any political subdivision thereof, or any instrumentality of any of the foregoing.”.

(3) CLERICAL AMENDMENTS.—

(A) The heading of section 136 of such Code is amended—

1 (i) by inserting “**AND WATER**” after
 2 “**ENERGY**”, and

3 (ii) by striking “**PROVIDED BY PUB-**
 4 **LIC UTILITIES**”.

5 (B) The item relating to section 136 in the
 6 table of sections of part III of subchapter B of
 7 chapter 1 of such Code is amended—

8 (i) by inserting “and water” after
 9 “energy”, and

10 (ii) by striking “provided by public
 11 utilities”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to taxable years beginning after
 14 the date of enactment of this section.

15 (d) NO INFERENCE.—Nothing in this section or the
 16 amendments made by this section shall be construed to
 17 create any inference with respect to the proper tax treat-
 18 ment of any subsidy received directly or indirectly from
 19 a public utility, a storm water management provider, or
 20 a State or local government for any water conservation
 21 measure or storm water management measure before the
 22 date of the enactment of this section.

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