

United States Senate

WASHINGTON, DC 20510

February 3, 2017

The Honorable Acting Secretary Adam Szubin
Department of Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Acting Secretary Szubin:

We are writing to request that the Department of the Treasury clarify that water conservation rebates and storm water management rebates, including the installation of green infrastructure, can be excluded from residents' taxable income. We have recently received information showing significant, measurable energy savings that result from water conservation. Given the compelling data we have received, we have reason to believe that water conservation rebates should be considered exempt from inclusion in gross income under 26 U.S.C. § 136 (Section 136), which provides such an exemption for energy conservation measures.

Significant conservation measures are underway at urban utilities throughout the country, including in Nevada, Washington, California, Colorado, and Arizona. For example, conservation programs in Arizona have been very effective. Over the past five years, rebates of over \$4,500,000 have contributed to a growing population and economy with shrinking water use. In Colorado, water utilities have also been working to implement conservation programs that have the benefit of saving water and electricity or natural gas, including residential shower head exchange programs. Nevada water managers have deployed a variety of innovative water conservation programs that are yielding immense benefits. Southern Nevada alone cut per capita consumption over the past decade by over 30 percent even though the region has added over 200,000 new residents in that same time span. In Washington state's largest metropolitan county, \$4,800,000 in rebates for rain gardens have helped manage nearly 20 million gallons of storm water, the most cost-effective method available.

In addition, we have attached a letter from the Director of the Center for Water-Energy Efficiency at the University of California, Davis, which details the Center's findings that water conservation in California in Summer 2015 resulted in energy savings equivalent to those of energy efficiency programs. Notably, their research found that water conservation-related greenhouse gas savings over the Summer of 2015 were equivalent to taking about 50,000 cars off the road for a year. Additionally, the Los Angeles Department of Water and Power has estimated total energy savings of approximately 24,400 MWh for fiscal year 2015/16 from the residential and commercial

indoor and outdoor water conservation rebates that it provides. These figures are even higher after including energy savings from hot water heating and other customer end uses.

Section 136 was added in 1992, and there is now a clear nexus between saving water and saving energy. Water conservation results in energy savings, including reductions in energy use for heating and for treatment, and it provides significant benefits for enhancing water and energy infrastructure by helping to modernize equipment and facilities and make user systems more efficient and cost effective. We believe the federal agencies involved in energy and water conservation and the Department of the Treasury currently have the authority to interpret Section 136 more broadly.

It appears that many, if not all, water conservation rebates result in per capita energy savings. The same is true of rebates designed to collect, treat, and use storm water or reduce storm water inflows into combined sewers. There are many challenges impacting our nation's water supplies, and it is imperative to maintain the effectiveness of incentives for residents to participate in water efficiency and storm water management programs. We would like to request that you clarify that in cases where a public utility can attest to energy savings from water conservation and storm water management measures, such rebates issued by a public utility can be excluded from gross income under Section 136. This is in line with the process many utilities already follow for energy conservation measures.

We look forward to working with you to ensure the success of water conservation and water quality efforts in our states.

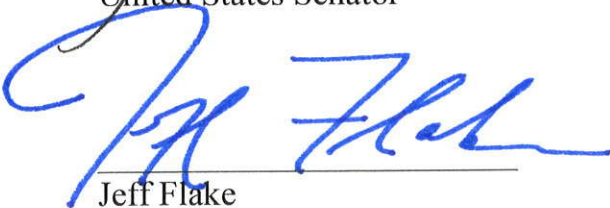
Sincerely,



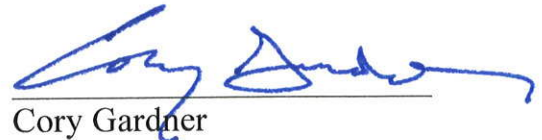
Dianne Feinstein
United States Senator



Dean Heller
United States Senator



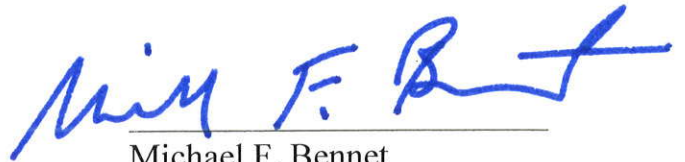
Jeff Flake
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United States Senator



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United States Senator



Patty Murray
United States Senator