

116TH CONGRESS
1ST SESSION

S. 361

To amend the Internal Revenue Code of 1986 to facilitate water leasing
and water transfers to promote conservation and efficiency.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 6, 2019

Mr. GARDNER (for himself, Mr. CRAPO, Mr. ROBERTS, Mr. TESTER, Mr.
BENNET, Mr. RISCH, and Mr. ENZI) introduced the following bill; which
was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to facilitate
water leasing and water transfers to promote conserva-
tion and efficiency.

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 and Agriculture
5 Tax Reform Act of 2019”.

1 **SEC. 2. FACILITATE WATER LEASING AND WATER TRANS-**
 2 **FERS TO PROMOTE CONSERVATION AND EF-**
 3 **FICIENCY.**

4 (a) IN GENERAL.—Paragraph (12) of section 501(c)
 5 of the Internal Revenue Code of 1986 is amended by add-
 6 ing at the end the following new subparagraph:

7 “(J) TREATMENT OF MUTUAL DITCH IRRI-
 8 GATION COMPANIES.—

9 “(i) IN GENERAL.—In the case of a
 10 mutual ditch or irrigation company or of a
 11 like organization to a mutual ditch or irri-
 12 gation company, subparagraph (A) shall be
 13 applied without taking into account—

14 “(I) any income received or ac-
 15 crued from the sale, lease, or ex-
 16 change of fee or other interests in real
 17 and personal property, including inter-
 18 ests in water (other than income de-
 19 rived from the sale, lease, or transfer
 20 of water to nonmembers outside the
 21 river basin or basins within which the
 22 mutual ditch or irrigation company
 23 operates),

24 “(II) any income received or ac-
 25 crued from the sale or exchange of
 26 stock in a mutual ditch or irrigation

1 company (or in a like organization to
2 a mutual ditch or irrigation company)
3 or contract rights for the delivery or
4 use of water, or
5 “(III) any income received or ac-
6 crued from the investment of income
7 described in subclause (I) or (II),
8 except that any income described in sub-
9 clause (I), (II), or (III) which is distrib-
10 uted or expended for expenses (other than
11 for operations, maintenance, and capital
12 improvements) of the mutual ditch or irri-
13 gation company or of the like organization
14 to a mutual ditch or irrigation company
15 (as the case may be) shall be treated as
16 nonmember income in the year in which it
17 is distributed or expended. For purposes of
18 the preceding sentence, expenses (other
19 than for operations, maintenance, and cap-
20 ital improvements) include expenses for the
21 construction of conveyances designed to de-
22 liver water outside of the system of the
23 mutual ditch or irrigation company or of
24 the like organization.

1 “(ii) TREATMENT OF ORGANIZA-
2 TIONAL GOVERNANCE.—In the case of a
3 mutual ditch or irrigation company or of a
4 like organization to a mutual ditch or irri-
5 gation company, where State law provides
6 that such a company or organization may
7 be organized in a manner that permits vot-
8 ing on a basis which is pro rata to share
9 ownership on corporate governance mat-
10 ters, subparagraph (A) shall be applied
11 without taking into account whether its
12 member shareholders have one vote on cor-
13 porate governance matters per share held
14 in the corporation. Nothing in this clause
15 shall be construed to create any inference
16 about the requirements of this subsection
17 for companies or organizations not in-
18 cluded in this clause.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall apply to taxable years beginning after
21 December 31, 2018.

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