

118TH CONGRESS
1ST SESSION

S. 1874

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

JUNE 8, 2023

Mr. CRAPO (for himself, Mr. BENNET, Mr. RISCH, Ms. LUMMIS, Mr. DAINES, and Mr. BARRASSO) 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 conservation 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 2023”.

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 “(K) 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,

19 “(II) any income received or ac-
 20 crued from the sale or exchange of
 21 stock in a mutual ditch or irrigation
 22 company (or in a like organization to
 23 a mutual ditch or irrigation company)
 24 or contract rights for the delivery or
 25 use of water, or

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

21 “(ii) TREATMENT OF ORGANIZA-
22 TIONAL GOVERNANCE.—In the case of a
23 mutual ditch or irrigation company or of a
24 like organization to a mutual ditch or irri-
25 gation company, where State law provides

1 that such a company or organization may
2 be organized in a manner that permits vot-
3 ing on a basis which is pro rata to share
4 ownership on corporate governance mat-
5 ters, subparagraph (A) shall be applied
6 without taking into account whether its
7 member shareholders have one vote on cor-
8 porate governance matters per share held
9 in the corporation. Nothing in this clause
10 shall be construed to create any inference
11 about the requirements of this subsection
12 for companies or organizations not in-
13 cluded in this clause.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall apply to taxable years beginning after
16 the date of the enactment of this Act.

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