

115TH CONGRESS  
1ST SESSION

# S. 1090

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

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IN THE SENATE OF THE UNITED STATES

MAY 10, 2017

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

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## 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 2017”.

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 “(I) 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 any in-  
 14 come received or accrued—

15 “(I) from the sale, lease, or ex-  
 16 change of fee or other interests in real  
 17 property, including interests in water,

18 “(II) from the sale or exchange  
 19 of stock in a mutual ditch or irriga-  
 20 tion company (or in a like organiza-  
 21 tion to a mutual ditch or irrigation  
 22 company) or contract rights for the  
 23 delivery or use of water, or

24 “(III) from the investment of  
 25 proceeds from sales, leases, or ex-  
 26 changes under subclauses (I) and (II),

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

18               “(ii) TREATMENT OF ORGANIZA-  
19               TIONAL GOVERNANCE.—In the case of a  
20               mutual ditch or irrigation company or of a  
21               like organization to a mutual ditch or irri-  
22               gation company, where State law provides  
23               that such a company or organization may  
24               be organized in a manner that permits vot-  
25               ing on a basis which is pro rata to share

1 ownership on corporate governance mat-  
2 ters, subparagraph (A) shall be applied  
3 without taking into account whether its  
4 member shareholders have one vote on cor-  
5 porate governance matters per share held  
6 in the corporation. Nothing in this clause  
7 shall be construed to create any inference  
8 about the requirements of this subsection  
9 for companies or organizations not in-  
10 cluded in this clause.”.

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

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