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MEMORANDUM

To: House Committee on Agriculture
From: Kyle Hamilton, Assistant Revisor of Statutes
Date: February 13, 2017
Subject: Bill Brief on HB 2100

HB 2100 would amend the procedures for establishing a water conservation area.

Section 1 would require the Kansas department of agriculture to post completed applications for water conservation areas to its official website. It would also require the department to give notice of the application to all water right owners with a point of diversion within half a mile of the pending water conservation area application.

Section 2 would amend the procedures in K.S.A. 2016 Supp. 82-745 for establishing a water conservation area. Water right owners are required to submit a management plan to the chief engineer before a water conservation area can be established. Currently, the management plan must indicate that at least one of four conditions¹ exist within the area, along with goals and a plan for addressing those conditions. Subsection (a) would be amended to allow water right owners to instead include a finding that the area within the boundaries of the water conservation area has been closed to new appropriations by rule, regulation or order of the chief engineer.

Subsection (e) would be amended to allow the chief engineer to approve a management plan that distributes water authorized by the existing water rights. The management plan could allow an individual water right or rights to exceed its annual quantity as long as the water use does not exceed the total annual authorized aggregate quantity of all the water rights participating in the

¹ (a) Groundwater levels in the area in question are declining or have declined excessively; or (b) the rate of withdrawal of groundwater within the area in question equals or exceeds the rate of recharge in such area; or (c) preventable waste of water is occurring or may occur within the area in question; or (d) unreasonable deterioration of the quality of water is occurring or may occur within the area in question;

management plan. Authority granted under the management plan would supersede the participating water rights.

Subsection (f) would allow the use of multi-year flex accounts in the water conservation area.²

Subsection (g) would provide that management plans authorized under a water conservation area could not be allowed to impair any water right.

Subsection (i) would reiterate the notice requirement established in Section 1.

Subsection (l) would provide that no water right could be perfected pursuant to a water conservation area.

Subsection (m) would give the chief engineer the discretion to adopt rules and regulations to effectuate the provisions of the statute, as amended.

HB 2100 would become effective upon publication in the statute book.

² A multi-year flex account is a 5-year term permit that temporarily replaces an existing water right. This term permit allows the water right holder to exceed their annual authorized quantity in any year but restricts total pumping over the 5-year period.