

SESSION OF 2020

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 270**

As Recommended by Senate Committee on  
Agriculture and Natural Resources

**Brief\***

SB 270 would expand the opportunity for the establishment of multi-year flex accounts (MYFAs) for groundwater water rights to water right users who do not have historical water use before 2009.

The bill would amend the definition of “base average usage” to:

- Exclude any amount applied to the unauthorized place of use from:
  - The average amount of water actually diverted for a beneficial use under the base water right during calendar years 2000 to 2009; or
  - The average amount of water actually diverted for a beneficial use under the base water right during the five calendar years immediately before the calendar year when water conservation began; and
- Include, at the discretion of the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture (KDA) (Chief Engineer), the net irrigation requirement for a base water right, if the right was certified after December 31, 1999.

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The bill would amend the definition of “flex account acreage” to include as a qualifying condition if the base water right was not certified prior to December 31, 1999, the flex account acreage must be the maximum number of legally irrigated acres to which water was beneficially applied in any single calendar year during the perfection period.

The bill would require, if the base water right is eligible to use the net irrigation requirement as created in the amended definition of “flex account acreage,” the amount of water deposited in the MYFA must not exceed 500 percent of the product of the annual net irrigation requirement multiplied by the flex account acreage, multiplied by 110 percent, but not greater than five times the maximum annual quantity authorized by the base water right.

The bill would remove provisions relating to designated drought emergency areas for 2011 and 2012.

The bill would also make technical amendments.

## **Background**

The bill was introduced on January 15, 2020, in the Senate Committee on Agriculture and Natural Resources on behalf of the KDA.

In the Senate Committee hearing on January 30, 2020, the Chief Engineer testified as a proponent to provide background information on MYFAs. A representative of the KDA also testified as a proponent. He testified there are water users in Kansas that are qualified to participate in a MYFA, but are unable to participate because they do not have the required historical water usage from 2000 to 2009. He stated there are approximately 1,600 water right permits that are currently not eligible for a MYFA because the water right was not perfected before 2009. He testified the bill would allow an additional calculation method for such water users. Representatives of the Kansas Corn Growers Association

and the Kansas Farm Bureau provided written-only proponent testimony. No opponent or neutral testimony was provided.

According to the fiscal note prepared by the Division of the Budget on the bill, the KDA indicates enactment of the bill would not have a fiscal effect on agency expenditures or revenue.