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Sean Miller
Testimony in Support of HB 2172
Friday, March 12, 2021

Chairman Kerschen, Members of the Senate Ag & Natural Resources committee, I appreciate the opportunity to submit written testimony on behalf of the Kansas Groundwater Management Districts in support of HB 2172 as amended by the House.

Multi-Year Flex Accounts, or MYFAs, were adopted in response to a significant drought during 2011-12. This voluntary program allowed a water right holder to utilize a five year volume of water during a specified five year period, but allows more than “one year’s” worth of water to be utilized in a single year. Practically this allows a producer additional flexibility to exceed their single year appropriation if needed to finish off a crop in a dry year. Of course exceeding the annual use of water would require a reduction in water use in another year because in no instance can a MYFA enrolled water right exceed their five year appropriation during the five year period. It’s worth noting that MYFAs are not limited solely to irrigation rights, and are available for water rights of all types of use.

In the ten years since the MYFA statute was enacted the legislature has also adopted a number of other conservation tools like the local enhanced management areas (LEMA) and water conservation areas (WCA). In order to best mesh these programs and provide for the greatest potential conservation of water it is necessary to update KSA 82a-736 to provide for a multi-year period of less than five years (with a corresponding prorated volume of water based on the number of calendar years approved in the flex agreement), and to allow for alternative calculations of “base average use” that takes into consideration these types of conservation measures.

HB 2172 would also provide clarity that a water right approved after 2004 would be able to participate in the MYFA program, and would provide an updated time frame for determining the amount of water that is allowed to be used under a MYFA permit. This change is necessary because when the MYFA statute was first adopted in 2012 it tied the allocations to water use during the 2000-2009 calendar years. This has created difficulty for water rights approved in recent years that will be remedied with this change.

We were supportive of the clarifying amendments requested by the Department of Ag, and made by the House. Thank you again for allowing me to submit testimony in support of HB 2172.