

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 123**

As Amended by Senate Committee of the Whole

**Brief\***

SB 123 would authorize the State Conservation Commission (SCC) and the Kansas Water Office to implement a conservation reserve enhancement program (CREP) upon execution of an agreement between the State of Kansas and the Farm Services Agency (FSA) of the U.S. Department of Agriculture (USDA). The CREP would be a joint state-federal program, to be administered for the state by the SCC.

The purpose of the CREP would be to reduce withdrawal demands on the High Plains Aquifer, improve water quality, protect public water supplies, and enhance wildlife habitat. The CREP would provide for the voluntary retirement of water rights in the Arkansas River corridor which would include areas in the following counties: Hamilton, Kearny, Finney, Gray, Ford, Edwards, Pawnee, Stafford, Hodgeman, Barton, and Rice. CREP acres may include the Arkansas River corridor or acres within existing or proposed groundwater use control areas as designated by the Chief Engineer of the Division of Water Resources.

The CREP would be subject to the following criteria:

- The total number of acres for enrollment in Kansas in CREP could not exceed 100,000;
- The number of acres eligible for enrollment in Kansas would be limited to one-half the number of acres represented by contracts in the federal conservation reserve program (CRP) that have expired in the prior year

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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>

in counties within the CREP area unless federal law permits the land enrolled in the CREP program to be used for agricultural purposes such as planting of agricultural commodities. In this case, the number of acres eligible for enrollment in CREP would be limited to the number of acres represented by contracts in the CRP that have expired in the prior year in counties within the CREP area;

- Lands enrolled in the CRP as of January 1, 2007, would not be eligible to be in the CREP;
- No more than 25 percent of the acreage in the CREP may be in any one county;
- No water right that is owned by a governmental entity, except a groundwater management district, would be purchased or retired by the state or federal government pursuant to the CREP; and
- Only water rights in good standing, *i.e.*, that meet the criteria noted below, would be eligible for the CREP:
  - At least 50 percent of the maximum annual quantity authorized to be diverted under the water right has been used in any three years from 2001 through 2005;
  - In the years 2001 through 2005, water rights used for the acreage in the CREP have not exceeded the maximum annual quantity authorized to be diverted and have not been the subject of enforcement sanctions by the Division of Water Resources in the last four years; and
  - The water right holder has submitted the annual water use report required by Kansas law for the most recent ten years.

The bill would require that the SCC submit a CREP report annually to the Senate Committee on Natural Resources and the House Committee on Agriculture and Natural Resources.

The report would be required to contain a description of program activities and is to include:

- The total water rights, measured in acre feet, retired each year in the CREP;
- The acreage in the CREP;
- The dollar amounts received and expended for the CREP;
- The economic impact of the CREP;
- The change in groundwater levels in the CREP area;
- The annual amount of water usage in the CREP area;
- An assessment of meeting each of the program objectives identified in the agreement with the FSA; and
- Other information as the SCC specifies.

The SCC would be required to adopt rules and regulations for the implementation and administration of the CREP.

### **Background**

During the initial hearing on SB 123, representatives of the Kansas Farm Bureau, the Kansas Conservation Commission, the Kansas Water Office, the Kansas Geological Survey, the Kansas Livestock Association, and the Sierra Club expressed support for the bill. Written testimony in support of the bill was submitted by the Secretary of Agriculture. A representative of the Kansas Grain and Feed Association and the Kansas Agribusiness Retailers Association appeared in opposition to the bill as did representatives of the Kansas Cooperative Council, Seaboard Foods, and the Kansas Pork Association. Written testimony opposing the bill was submitted by a representative of the Petroleum Marketers Association. A

representative of the Kansas Association of Wheat Growers appeared as a neutral party. A Kansas State University professor who was one of the individuals involved in a study of the regional economic impact of implementation of CREP in the Upper Arkansas River Basin funded by the Kansas Water Office explained the outcome of the study. At a later meeting, written testimony from Groundwater Management District Number 5 and Groundwater Management District Number 1 supporting SB 123 was made available to the Senate Committee members.

A subcommittee, appointed to consider possible amendments to SB 123, met two times and prepared and presented proposed amendments to the full Committee.

The Senate Committee of the Whole amended the bill to:

- Add Hodgeman County to the list of counties where all or portions of the counties are located within the upper Arkansas River Basin and make up the “Arkansas River corridor” under this bill;
- Provide that CREP acres may include acres in both the Arkansas River corridor or acres within existing or proposed groundwater use control areas designated by the Chief Engineer of the Division of Water Resources; and
- Add language that would prohibit a water right owned by a governmental entity, except a groundwater management district, from being purchased or retired by the state or federal government pursuant to the CREP.

The fiscal note for SB 123, in its original form, indicates the estimated cost of operating expenditures for the CREP would be \$203,840 from all funding sources, including \$83,940 from the State General Fund and \$120,000 from the State Water Plan Fund. The State Water Fund money would be used for well plugging and is included in the *FY 2008 Governor's*

*Budget Report.* The fiscal note provides information indicating \$5.0 million for the Arkansas River Conservation Reserve Enhancement Program was recommended by the Governor in the *FY 2007 Governor's Budget Report*. The 2006 Legislature approved \$5.0 million for the CREP Program, but placed a zero expenditure limit on the fund for FY 2007. The Governor's recommendations for FY 2007 include expenditure of the \$5.0 million from the State Water Plan Fund for the CREP.

A Kansas State University study funded by the Kansas Water Office projects the potential effect of enrolling 100,000 acres in CREP would be a reduction of approximately \$8.7 million in agricultural production annually over the 15-year life of the program, a figure representing 3.0 percent of the total value of agricultural production in the 10-county CREP region. The Kansas Water Office estimates \$400,000, or 1.9 percent, in county property taxes would be lost if the projected 85,000 acres of irrigated land were to be enrolled in the program