

January 29, 2025

The Honorable Virgil Peck, Chairperson
Senate Committee on Agriculture and Natural Resources
300 SW 10th Avenue, Room 144-S
Topeka, Kansas 66612

Dear Senator Peck:

SUBJECT: Fiscal Note for SB 58 by Senate Committee on Agriculture and Natural Resources

In accordance with KSA 75-3715a, the following fiscal note concerning SB 58 is respectfully submitted to your committee.

SB 58 would modify the requirements and allocations for multi-year flex accounts. The chief engineer would be authorized to establish multi-year flex accounts to improve water management by enabling multi-year flexibility in the use of water authorized to be diverted under a groundwater water right if such flexibility neither impairs existing water rights nor increases a negative effect on the source of supply. The bill would delete the definition of “alternative base average usage” and would alter the definition of “base water right” to mean a water right that is vested or has been issued a certificate of appropriation, is not subject to a multi-year allocation pursuant to any other program or order issued by the chief engineer, is not subject to any order issued by the chief engineer pursuant to certain statutes, has not been deposited or placed in a safe deposit account in a chartered water bank, is not deemed abandoned and is in compliance with all provisions of any order of the chief engineer, and has not been determined to have any other conditions that make establishment of a multi-year flex account contrary to the public interest. The bill would specify that multi-year flex accounts would have a permit term for up to five years that suspends a base water right and assigns a multi-year quantity allocation to such base water right in place of the annual quantity limitation. Any holder of a base water right would be able to establish a multi-year flex account where the holder could deposit water from a base water right in advance for a period of up to five consecutive calendar years unless limited by statute.

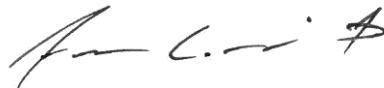
The bill would remove certain requirements regarding the amount that could be deposited into multi-year flex accounts, how funding could be used, and how term permits would function.

The bill would specify that for each multi-year flex account that overlaps in place of use with other water rights, the multi-year flex account's authorized quantity would be limited by the net irrigation requirement for the common place of use. The bill would also require a separate multi-year flex account for each point of diversion, require that the authorized rate of diversion must be the maximum authorized rate, and require any approval of an application to change the point of diversion or place of use of the base water right to automatically result in a change to the point of diversion or place of use for the multi-year flex account.

The bill specifies that each application for a multi-year flex account would be subject to the same fee required for other term permits. The bill would outline conditions in which water remaining in a multi-year flex account upon the expiration of the account's term may be added to the deposited amount. The bill would specify that multi-year flex accounts would be subject to all provisions of the Kansas Water Appropriation Act. All costs of administration of multi-year flex accounts would be paid from the Water Appropriation Certification Fund when monies are available. The bill would allow the chief engineer to adopt rules and regulations to implement, administer, and enforce the bill. The bill would require the chief engineer to submit a written report on the implementation of the bill to certain committees on or before February 1, 2028, and every three years thereafter.

The Kansas Department of Agriculture and Kansas Water Office indicate that enactment of SB 58 would not have a fiscal effect on agency operations.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam C. Proffitt", with a stylized flourish at the end.

Adam C. Proffitt
Director of the Budget

cc: Lita Biggs, Department of Agriculture
Debra Jones, Kansas Water Office