

SESSION OF 2025

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2111

As Amended by House Committee on
Agriculture and Natural Resources

Brief*

HB 2111, as amended, would make changes to the Conservation Reserve Enhancement Program (CREP) of the Division of Water Resources (DWR), Kansas Department of Agriculture (KDA).

[*Note:* CREP is a federal and state partnership created to enhance water conservation efforts in the Upper Arkansas River corridor, from Hamilton County to Rice County. Enrollment in CREP is voluntary, and a producer must enroll in the program to participate. The producer receives rental payments and other incentive payments to permanently retire state water rights on their enrolled acres.]

Enrolled CREP Acres

The bill would increase the aggregate total number of acres in the state enrolled in CREP from 40,000 to 60,000, with the exception of the last eligible enrollment that would exceed 60,000.

The bill would clarify that:

- The aggregate total number of acres enrolled in all CREPs in any one Kansas county could not exceed 25 percent of the statewide acreage cap, with the exception of the last eligible enrollment that would exceed the cap for any one county;

*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 <https://klrd.gov/>

- An acreage would not be eligible for CREP enrollment if it is otherwise ineligible for enrollment under federal law; and
- No more than 1,600 acres could be enrolled in CREP in one county in the same calendar year unless the Secretary of Agriculture, in consultation with the Chief Engineer of the DWR, certifies the Chief Engineer has determined:
 - The acreage is in an area where an impairment is occurring and enrolling the acreage in CREP will be responsive to the impairment; or
 - The acreage is less than five miles from a portion of the aquifer with less than ten years of usable life.

CREP Land Practices

The bill would allow DWR, if approved by the U.S. Department of Agriculture, to approve a CREP contract that allows for the establishment of native grasses, routine grazing, dryland farming, or limited irrigation practices for the purpose of meeting water quantity goals.

Administration Criteria

The bill would require DWR to administer each CREP established for the purpose of meeting water quantity goals, in accordance with the following criteria:

- All acreage that is an authorized place of use of an irrigation water right and is proposed to be enrolled in CREP shall have been irrigated at a rate of not less than $\frac{1}{2}$ acre-foot per acre per year for three out of the five years immediately preceding the year that the acreage is offered for enrollment, as determined by DWR;

- The water right or water rights used for the acreage proposed to be enrolled in CREP shall not have been the subject of any sanctions or penalties by DWR that are in effect or pending determination at the time that the acreage is offered for enrollment; and
- The owner of the water right or water rights for which the acreage that is proposed to be enrolled in CREP is an authorized place of use, or the water use correspondent for such water right shall have submitted the annual water use report required by KSA 82a-732 for each of the most recent ten years.

Exceptions to Eligibility Criteria

The Secretary of Agriculture, in consultation with the Conservation Program Policy Board and State Conservation Commission and the Kansas Farm Service Agency office, could grant exceptions to the eligibility criteria if the acreage proposed to be enrolled in CREP satisfies one or more of the following conditions:

- Located in an area designated as a high-priority area for water conservation pursuant to KSA 2024 Supp. 82a-1044;
- An authorized place of use of a high flow capacity water well;
- An authorized place of use of a water right that was not utilized in accordance within the time frame in law due to circumstances involving bankruptcy, probate, or other legal matters, excluding those related to any enforcement sanctions or penalties by DWR that are in effect or pending determination at the time that the acreage is offered for enrollment in CREP; or

- An authorized place of use of a water right that is or has been enrolled in a water conservation program, including, but not limited to, the USDA environmental quality incentives program (EQIP) or a water conservation area pursuant to KSA 81a-745, or has been assigned a water quantity allocation pursuant to an Intensive Groundwater Use Control Area (IGUCA) or a Local Enhanced Management Area (LEMA).

Reporting Requirements

The bill would update the KDA's reporting requirements to the Legislature. The KDA would be required to report the following information to the Senate and House Committees on Agriculture and Natural Resources:

- The acreage enrolled in CREP during the preceding five years;
- The dollar amounts received and expended for CREP during the preceding five years; and
- An assessment of whether each of the program objectives identified in the agreement with the Farm Services Agency has been met.

The bill would also update the additional information that KDA would be required to report for each CREP that would be established with the purpose meeting water quantity goals:

- The total amount of water, measured in acre-feet, that was permanently retired in CREP during the preceding five years;
- The change in groundwater water levels in the CREP area during the preceding five years;
- The total annual water usage in the CREP area during the preceding five years; and

- The average annual water use, measured in acre-feet, under each water right for which an authorized place of use is enrolled in CREP during the preceding five years.

Technical and Conforming Amendments

The bill would also make technical and conforming amendments in continuing law.

Background

The bill was introduced by the House Committee on Water at the request of the Chief Engineer, Division of Water Resources, KDA.

House Committee on Agriculture and Natural Resources

In the House Committee hearing, **proponent** testimony was provided by the Assistant Secretary of Agriculture and a representative of The Nature Conservancy.

The proponents stated the bill would provide new flexibility for CREP participants, which producers have been requesting. As of September 30, 2024, a total of 142 state CREP contracts on 24,140 acres have been approved by the State. These contracts have resulted in the permanent retirement of 49,146 acre-feet of annual water appropriation on 174 water rights from 217 wells. The contracts represent a total of \$1.9 million in one-time state sign-up incentive payments to producers since the program was passed by the Legislature in 2007.

Written-only proponent testimony was provided by representatives of the Kansas Association of Conservation Districts and Kansas Farm Bureau.

Neutral testimony was provided by a representative of the Kansas Agribusiness Retailers Association and Kansas Grain and Feed Association.

The neutral conferee explained that water conservation is a laudable goal, especially in heavily water-appropriated areas in the Upper Arkansans and Rattlesnake Creek basins; however, when the CREP legislation was passed in 2007, a cap was agreed to, so that no more than 25 percent of a county's acres could be enrolled, which meant no more than 10,000 acres. The bill would expand this cap to 15,000 acres. The conferee further explained it was historically understood and appreciated that the enrollment of too many acres in one county could harm the agricultural sector, local tax base, and local economy of that county.

Written-only neutral testimony was provided by a representative of the Kansas Cooperative Council.

No other testimony was provided.

The House Committee amended the bill to not allow more than 1,600 acres to be enrolled in CREP in one county in the same calendar year unless the Secretary of Agriculture, in consultation with the Chief Engineer of the DWR, certifies the Chief Engineer has determined the acreage is in an area where an impairment is occurring and enrolling the acreage in CREP will be responsive to the impairment; or the acreage is less than five miles from a portion of the aquifer with less than ten years of usable life.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the KDA and Kansas Water Office indicate enactment of the bill would have no fiscal effect.

Conservation Research Enhancement Program; CREP; water; conservation