

SUBSTITUTE FOR SENATE BILL No. 147

By Committee on Agriculture

2-23

1 AN ACT concerning water; relating to moneys recovered from certain
2 litigation; amending K.S.A. 82a-1801 and 82a-1802 and K.S.A. 2010
3 Supp. 82a-1803, 82a-1804 and 82a-1805 and repealing the existing
4 sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 82a-1801 is hereby amended to read as follows:
8 82a-1801. (a) ~~Amounts~~ *All moneys* recovered by the state of Kansas from
9 ~~a settlement, judgment or decree in the litigation brought in 1985 by the~~
10 ~~state of Kansas against the state~~ *the states of Colorado or Nebraska* to
11 resolve disputes arising under the Arkansas river compact *or the*
12 *Republican river compact* shall be deposited in the state treasury and
13 credited as follows:

14 (1) ~~Until the aggregate amount of moneys credited to the interstate~~
15 ~~water litigation fund equals the aggregate of all amounts certified by the~~
16 ~~attorney general under subsection (b), 100% shall be credited to the~~
17 ~~interstate water litigation fund~~ *All moneys received from the state of*
18 *Colorado in any litigation arising under the Arkansas river compact*
19 *shall be remitted to the state treasurer in accordance with the provisions*
20 *of K.S.A. 75-4215, and amendments thereto. Upon receipt of such*
21 *remittance, the state treasurer shall credit:*

22 (A) *To the interstate water litigation fund, the amount equal to the*
23 *total of 5% of the aggregate moneys received from the state of Colorado*
24 *in such litigation plus the amount equal to the aggregate of any expenses*
25 *incurred by the state, which are attributable to the deposit from any such*
26 *litigation arising under the Arkansas river compact;*

27 (B) *one-third of all moneys remaining recovered from the state of*
28 *Colorado in such litigation to the state water plan fund for use for water*
29 *conservation projects, with priority given to conservation projects that*
30 *directly enhance the ability of the state of Kansas to remain in*
31 *compliance with the Arkansas river compact; and*

32 (C) *two-thirds of all moneys remaining recovered from the state of*
33 *Colorado in such litigation to the Arkansas river water conservation*
34 *projects fund.*

35 (2) ~~When the aggregate amount of moneys credited to the interstate~~
36 ~~water litigation fund equals the aggregate of all amounts certified by the~~

1 ~~attorney general under subsection (b), 33 1/3% shall be credited to the~~
2 ~~state water plan fund for use for water conservation projects and 66 2/3%~~
3 ~~shall be credited to the water conservation projects fund All moneys~~
4 *received from the state of Nebraska in any litigation arising under the*
5 *Republican river compact shall be remitted to the state treasurer in*
6 *accordance with the provisions of K.S.A. 75-4215, and amendments*
7 *thereto. Upon receipt of such remittance, the state treasurer shall credit:*

8 (A) *To the interstate water litigation fund, the amount equal to the*
9 *total of 5% of the aggregate moneys received from the state of Nebraska*
10 *in such litigation plus an amount equal to the aggregate of any expenses*
11 *incurred by the state, which are attributable to the deposit from any such*
12 *litigation arising under the Republican river compact;*

13 (B) *one-third of all moneys remaining recovered from the state of*
14 *Nebraska in such litigation to the state water plan fund for use for water*
15 *conservation projects, with priority given to conservation projects that*
16 *directly enhance the ability of the state of Kansas to remain in*
17 *compliance with the Republican river compact; and*

18 (C) *two-thirds of all moneys remaining recovered from the state of*
19 *Nebraska in such litigation to the Republican river water conservation*
20 *projects — Nebraska moneys fund.*

21 (3) *All moneys received from the state of Colorado in any litigation*
22 *arising under the Republican river compact shall be remitted to the state*
23 *treasurer in accordance with the provisions of K.S.A. 75-4215, and*
24 *amendments thereto. Upon receipt of such remittance, the state treasurer*
25 *shall credit:*

26 (A) *To the interstate water litigation fund, the amount equal to the*
27 *total of 5% of the aggregate moneys received from the state of Colorado*
28 *in such litigation plus an amount equal to the aggregate of any expenses*
29 *incurred by the state, which are attributable to the deposit from any such*
30 *litigation arising under the Republican river compact;*

31 (B) *one-third of all moneys remaining recovered from the state of*
32 *Colorado in such litigation to the state water plan fund for use for water*
33 *conservation projects, with priority given to conservation projects that*
34 *directly enhance the ability of the state of Kansas to remain in*
35 *compliance with the Republican river compact; and*

36 (C) *two-thirds of all moneys remaining recovered from the state of*
37 *Colorado in such litigation to the Republican river water conservation*
38 *projects — Colorado moneys fund.*

39 (b) *The attorney general shall certify to the director of accounts and*
40 *reports any expenses incurred by the state in the any litigation brought in*
41 *1985 by the state of Kansas against the state states of Colorado or*
42 *Nebraska to resolve disputes arising under the Arkansas river compact or*
43 *the Republican river compact and in preparation for such litigation.*

1 Sec. 2. K.S.A. 82a-1802 is hereby amended to read as follows: 82a-
2 1802. (a) There is hereby established in the state treasury the interstate
3 water litigation fund, to be administered by the attorney general.

4 (b) Revenue from the following sources shall be credited to the
5 interstate water litigation fund:

6 (1) Amounts provided for by K.S.A. 82a-1801, *and amendments*
7 *thereto*; and

8 (2) moneys received from any source by the state in the form of
9 gifts, grants, reimbursements or appropriations for use for the purposes of
10 the fund.

11 (c) From the moneys first credited to the interstate water litigation
12 fund, persons or entities that contributed moneys to the court cost fund
13 account of the office of the attorney general for use in the litigation
14 described in subsection (b)(1) shall be reimbursed the amount
15 contributed. The balance of moneys credited to the fund shall be
16 expended only for the purpose of paying expenses incurred by the state
17 in:

18 (1) Current or future litigation or preparation for future litigation
19 with another state, the federal government or an Indian nation to resolve a
20 dispute concerning water; or

21 (2) monitoring or enforcing compliance with the terms of an
22 interstate water compact or a settlement, judgment or decree in past or
23 future litigation to resolve a dispute with another state, the federal
24 government or an Indian nation concerning water.

25 (d) Interest attributable to moneys in the interstate water litigation
26 fund shall be credited to the state general fund as provided by K.S.A. 75-
27 4210a, and amendments thereto.

28 (e) All expenditures from the interstate water litigation fund shall be
29 made in accordance with appropriation acts upon warrants of the director
30 of accounts and reports issued pursuant to vouchers approved by the
31 attorney general or a person designated by the attorney general.

32 ~~(f) Unless the attorney general certifies to the director of accounts~~
33 ~~and reports as of June 30, 2001, that there is on-going litigation or~~
34 ~~preparation for litigation between the state of Kansas and another state,~~
35 ~~the federal government or an Indian nation to resolve a dispute~~
36 ~~concerning water, on July 1, 2001: (1) The director of accounts and~~
37 ~~reports shall transfer and credit all moneys in the interstate water~~
38 ~~litigation fund to the state general fund; and (2) the interstate water~~
39 ~~litigation fund shall thereupon be abolished.~~

40 Sec. 3. K.S.A. 2010 Supp. 82a-1803 is hereby amended to read as
41 follows: 82a-1803. (a) There is hereby established in the state treasury the
42 water conservation projects fund, to be administered by the director of the
43 Kansas water office. *The water conservation projects fund is hereby*

1 *redesignated as the Arkansas river water conservation projects fund.*

2 (b) Revenue from the following sources shall be credited to the
3 *Arkansas river water conservation projects fund:*

4 (1) Amounts provided for by K.S.A. 82a-1801, *and amendments*
5 *thereto;* and

6 (2) moneys received from any source by the state in the form of
7 gifts, grants, reimbursements or appropriations for use for the purposes of
8 the fund.

9 (c) Moneys credited to the *Arkansas river water conservation*
10 *projects fund* ~~may shall~~ be expended only for ~~the purpose of paying all or~~
11 ~~a portion of the costs of the following water management, conservation,~~
12 ~~administration~~ *conservation projects, utilization efficiency, administrative*
13 *requirements* and delivery projects, and similar types of projects, in those
14 areas of the state lying in the upper Arkansas river basin and directly
15 impacted by the provisions of the Arkansas river compact between this
16 state and the state of Colorado.

17 (d) *The types of projects that may be funded under subsection (a)(1)*
18 *of K.S.A. 82a-1801, and amendments thereto, include:*

19 (1) Efficiency improvements to canals or laterals owned by a ditch
20 company or projects to improve the operational efficiency or
21 management of such canals or laterals;

22 (2) water use efficiency devices, tailwater systems or irrigation
23 system efficiency upgrades;

24 (3) water measurement flumes, meters, gauges, data collection
25 platforms or related monitoring equipment;

26 (4) artificial recharge or purchase of water rights for stream recovery
27 or aquifer restoration;

28 (5) maintenance of the Arkansas river channel; or

29 (6) monitoring and enforcement of Colorado's compliance with the
30 Arkansas river compact.

31 Moneys credited to the fund may be expended to reimburse costs of
32 projects described by this subsection that were required by the division of
33 water resources and commenced on or after July 1, 1994.

34 ~~(d) Any person or entity may apply to the director of the Kansas~~
35 ~~water office for the expenditure of moneys in the water conservation~~
36 ~~projects fund for the purposes provided by this section. The director of~~
37 ~~the Kansas water office and the chief engineer of the division of water~~
38 ~~resources of the Kansas department of agriculture shall review and~~
39 ~~approve each proposed project for which moneys in the fund will be~~
40 ~~expended. In reviewing and approving proposed projects, the director and~~
41 ~~the chief engineer shall give priority to: (1) Projects that achieve the~~
42 ~~greatest water conservation efficiency for the general good; and (2)~~
43 ~~projects that have been required by the division of water resources. Upon~~

1 such review and approval, the director of the Kansas water office shall
2 request the legislature to appropriate, as a line item, moneys from the
3 fund to pay all or a portion of the costs of the specific project, except that
4 any project for which an aggregate of less than \$10,000 will be expended
5 from the fund shall not require a line-item appropriation.

6 (e) ~~Interest attributable to moneys in the water conservation projects~~
7 ~~fund shall be credited to the state general fund as provided by K.S.A. 75-~~
8 ~~4210a and amendments thereto.~~

9 (f) ~~All expenditures from the water conservation projects fund shall~~
10 ~~be made in accordance with appropriation acts upon warrants of the~~
11 ~~director of accounts and reports issued pursuant to vouchers approved by~~
12 ~~the director of the Kansas water office or a person designated by the~~
13 ~~director of the Kansas water office.~~

14 Sec. 4. K.S.A. 2010 Supp. 82a-1804 is hereby amended to read as
15 follows: 82a-1804. (a) ~~Moneys recovered by the state of Kansas from the~~
16 ~~states of Nebraska or Colorado to resolve disputes arising under the~~
17 ~~Republican river compact shall be deposited in the state treasury and~~
18 ~~credited as follows:~~

19 (1) ~~100% of moneys from both Nebraska and Colorado shall be~~
20 ~~credited to the interstate water litigation fund created by K.S.A. 82a-~~
21 ~~1802, and amendments thereto. Whenever moneys are credited to the~~
22 ~~interstate water litigation fund pursuant to this subsection (a)(1), the~~
23 ~~director of accounts and reports shall transfer all such moneys from the~~
24 ~~interstate water litigation fund to the interstate water litigation reserve~~
25 ~~account of the state general fund until the balance in the interstate water~~
26 ~~litigation reserve account of the state general fund equals \$20,000,000.~~
27 ~~The attorney general shall certify to the director of accounts and reports~~
28 ~~any expenses incurred by the state in any litigation brought by the state of~~
29 ~~Kansas against the states of Nebraska or Colorado to resolve disputes~~
30 ~~arising under the Republican river compact and in preparation for such~~
31 ~~litigation.~~

32 (2) ~~Once the balance in the interstate water litigation reserve account~~
33 ~~of the state general fund equals \$20,000,000, all moneys remaining~~
34 ~~recovered from Nebraska shall be credited to the Republican river water~~
35 ~~conservation projects — Nebraska moneys fund as directed by subsection~~
36 ~~(b) of this section, and all moneys remaining recovered from Colorado~~
37 ~~shall be credited to the Republican river water conservation projects —~~
38 ~~Colorado moneys fund as directed by subsection (c) of this section.~~

39 (b)(a) There is hereby established in the state treasury the
40 Republican river water conservation projects — Nebraska moneys fund
41 to be administered by the director of the Kansas water office.

42 (1) ~~One-third of the money deposited to this fund shall be credited to~~
43 ~~the state water plan fund for use for water conservation projects, with~~

1 priority given to conservation projects that directly enhance the ability of
2 the state of Kansas to remain in compliance with the Republican river
3 compact; and

4 (b) Revenue from the following sources shall be credited to the
5 Republican river water conservation projects — Nebraska moneys fund:

6 (1) Amounts provided for by K.S.A. 82a-1801, and amendments
7 thereto; and

8 (2) moneys received from any source by the state in the form of gifts,
9 grants, reimbursements or appropriations for use for the purposes of the
10 fund.

11 ~~(2)(c) two-thirds of the money deposited in this Moneys credited to~~
12 ~~the Republican river water conservation projects — Nebraska moneys~~
13 ~~fund shall be expended only for conservation projects, utilization~~
14 ~~efficiency, administrative requirements and delivery projects, and similar~~
15 ~~types of projects set forth in subsection (d) (g), in those areas of the state~~
16 ~~lying in the lower Republican river basin between the Kansas/Nebraska~~
17 ~~border and Milford dam in all or parts of Clay, Cloud, Dickinson, Geary,~~
18 ~~Jewell, Mitchell, Republic, Riley, Smith and Washington counties.~~

19 ~~(e)(d) There is hereby established in the state treasury the~~
20 ~~Republican river water conservation projects — Colorado moneys fund to~~
21 ~~be administered by the director of the Kansas water office.~~

22 ~~(1) One-third of the money deposited to this fund shall be credited to~~
23 ~~the state water plan fund for use for water conservation projects; and~~

24 (e) Revenue from the following sources shall be credited to the
25 Republican river water conservation projects — Colorado moneys fund:

26 (1) Amounts provided for by K.S.A. 82a-1801, and amendments
27 thereto; and

28 (2) moneys received from any source by the state in the form of gifts,
29 grants, reimbursements or appropriations for use for purposes of the
30 fund.

31 ~~(2)(f) two-thirds of the money deposited in this Moneys credited to~~
32 ~~the Republican river water conservation projects—Colorado projects —~~
33 ~~Colorado moneys fund shall be expended only for conservation projects,~~
34 ~~utilization efficiency, administrative requirements and delivery projects,~~
35 ~~and similar types of projects set forth in subsection (d), in those areas of~~
36 ~~the state lying in the upper Republican river basin in northwest Kansas in~~
37 ~~all or parts of Cheyenne, Decatur, Norton, Phillips, Rawlins, Sheridan,~~
38 ~~Sherman and Thomas counties.~~

39 ~~(d)(g) The types of projects that may be funded under subsections~~
40 ~~(b) and (e) paragraphs (2) and (3) of subsection (a) of K.S.A. 82a-1801,~~
41 ~~and amendments thereto, include:~~

42 (1) Efficiency improvements to canals or laterals managed and paid
43 for by an irrigation district or projects to improve the operational

1 efficiency or management of such canals or laterals;

2 (2) water use efficiency upgrades;

3 (3) implementation of water conservation of irrigation and other
4 types of water uses;

5 (4) implementation of water management plans or actions by water
6 rights holders;

7 (5) water measurement flumes, meters, gauges, data collection
8 platforms or related monitoring equipment and upgrades;

9 (6) artificial recharge, funding a water transition assistance program;
10 the purchase of water rights for stream recovery or aquifer restoration and
11 cost share for state or federal conservation programs that save water;

12 (7) maintenance of the channel and the tributaries of the Republican
13 river;

14 (8) reservoir maintenance or the purchase, lease, construction or
15 other acquisition of existing or new storage space in reservoirs;

16 (9) purchase, lease or other acquisition of a water right; and

17 (10) expenses incurred to construct and operate off-stream storage.

18 Sec. 5. K.S.A. 2010 Supp. 82a-1805 is hereby amended to read as
19 follows: 82a-1805. (a) *(1) Any person or entity may apply to the*
20 *director of the Kansas water office for expenditure of moneys in the*
21 *Arkansas river water conservation projects fund for the purposes set*
22 *forth in paragraph (1) of subsection (a) of K.S.A. 82a-1801, and*
23 *amendments thereto.*

24 (2) Any person or entity may apply to the director of the Kansas
25 water office for expenditure of moneys in the Republican river water
26 conservation projects — Nebraska moneys fund and the Republican river
27 water conservation projects — Colorado moneys fund for the purposes
28 set forth in ~~subsection (b) and (c) paragraphs (2) and (3) of subsection~~
29 ~~(a) of K.S.A. 2010 Supp. 82a-1804~~ *82a-1801, and amendments thereto.*

30 (b) The director of the Kansas water office and the chief engineer of
31 the Kansas department of agriculture, division of water resources shall
32 review and approve each proposed project for which moneys in either
33 fund will be expended. In reviewing and approving proposed projects the
34 director and the chief engineer shall give priority to: (1) Projects needed
35 to achieve or maintain compliance with the *Arkansas river compact or*
36 *the Republican river compact*; (2) projects that achieve greatest water
37 conservation efficiency for the general good; and (3) projects that have
38 been required by the division of water resources. Upon such review and
39 approval, the director of the Kansas water office shall request the
40 legislature to appropriate, as a line item, moneys from either fund to pay
41 all or a portion of the costs for a specific project, except that any project
42 which an aggregate of less than \$10,000 will be expended from either
43 fund shall not require a line item appropriation.

1 ~~(b)~~(c) Interest attributable to moneys in the *Arkansas river water*
2 *conservation projects fund*, Republican river water conservation projects
3 — Nebraska moneys fund and the Republican river water conservation
4 projects — Colorado moneys fund shall be credited to the state general
5 fund as provided by K.S.A. 75-4210a, and amendments thereto.

6 ~~(e)~~(d) All expenditures from the *Arkansas river water conservation*
7 *projects fund*, Republican river water conservation projects — Nebraska
8 moneys fund and the Republican river water conservation projects —
9 Colorado moneys fund shall be made in accordance with appropriation
10 acts upon warrants of the director of accounts and reports issued pursuant
11 to vouchers approved by the director of the Kansas water office or a
12 designee of the director of the Kansas water office.

13 Sec. 6. K.S.A. 82a-1801 and 82a-1802 and K.S.A. 2010 Supp. 82a-
14 1803, 82a-1804 and 82a-1805 are hereby repealed.

15 Sec. 7. This act shall take effect and be in force from and after its
16 publication in the statute book.

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