

WATER LITIGATION
K.S.A. 82a-1801 through 82a-1805
Revised October, 2011

K.S.A. 82a-1801. Moneys recovered in certain litigation; disposition. (a) All moneys recovered by the state of Kansas from the states of Colorado or Nebraska to resolve disputes arising under the Arkansas river compact or the Republican river compact shall be deposited in the state treasury and credited as follows:

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

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

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

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

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

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

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

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

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

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

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

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

(b) The attorney general shall certify to the director of accounts and reports any expenses incurred by the state in any litigation brought by the state of Kansas against the states of Colorado or Nebraska to resolve disputes arising under the Arkansas river compact or the Republican river compact and in preparation for such litigation. **(History: L. 1996, ch. 217, § 3; L. 2011, ch. 74, § 2; July 1.)**

K.S.A. 82a-1802. Same; interstate water litigation fund. (a) There is hereby established in the state treasury the interstate water litigation fund, to be administered by the attorney general.

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

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

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

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

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

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

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

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

(History: L. 1996, ch. 217, § 1; L. 2011, ch. 74, § 3; July 1.)

K.S.A. 82a-1803. Same; water conservation projects fund. (a) There is hereby established in the state treasury the water conservation projects fund, to be administered by the director of the Kansas water office. The water conservation projects fund is hereby redesignated as the Arkansas river water conservation projects fund.

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

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

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

(c) Moneys credited to the Arkansas river water conservation projects fund shall be expended only for conservation projects, utilization efficiency, administrative requirements and delivery projects, and similar types of projects, in those areas of the state lying in the upper Arkansas river basin and directly impacted by the provisions of the Arkansas river compact between this state and the state of Colorado.

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

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

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

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

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

(5) maintenance of the Arkansas river channel; or

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

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

(History: L. 1996, ch. 217, § 2; L. 2004, ch. 101, § 181; L. 2011, ch. 74, § 4; July 1.)

K.S.A. 82a-1804. Moneys recovered in Republican River Compact Litigation; disposition; Republican River Water Conservation Projects - Nebraska Moneys Fund; Republican River Water Conservation Projects - Colorado Moneys Fund. (a) There is hereby established in the state treasury the Republican river water conservation projects — Nebraska moneys fund to be administered by the director of the Kansas water office.

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

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

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

(c) Moneys credited to the Republican river water conservation projects—Nebraska moneys fund shall be expended only for conservation projects, utilization efficiency, administrative requirements and delivery projects, and similar types of projects set forth in subsection (g), in those areas of the state lying in the lower Republican river basin between the Kansas/Nebraska border and Milford dam in all or parts of Clay, Cloud, Dickinson, Geary, Jewell, Mitchell, Republic, Riley, Smith and Washington counties.

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

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

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

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

(f) Moneys credited to the Republican river water conservation projects—Colorado moneys fund shall be expended only for conservation projects, utilization efficiency, administrative requirements and delivery projects, and similar types of projects set forth in subsection (g), in those areas of the state lying in the upper Republican river basin in northwest Kansas in all or parts of Cheyenne, Decatur, Norton, Phillips, Rawlins, Sheridan, Sherman and Thomas counties.

(g) The types of projects that may be funded under paragraphs (2) and (3) of subsection (a) of K.S.A. 82a-1801, and amendments thereto, include:

(1) Efficiency improvements to canals or laterals managed and paid for by an irrigation district or projects to improve the operational efficiency or management of such canals or laterals;

- (2) water use efficiency upgrades;
 - (3) implementation of water conservation of irrigation and other types of water uses;
 - (4) implementation of water management plans or actions by water rights holders;
 - (5) water measurement flumes, meters, gauges, data collection platforms or related monitoring equipment and upgrades;
 - (6) artificial recharge, funding a water transition assistance program; the purchase of water rights for stream recovery or aquifer restoration and cost share for state or federal conservation programs that save water;
 - (7) maintenance of the channel and the tributaries of the Republican river;
 - (8) reservoir maintenance or the purchase, lease, construction or other acquisition of existing or new storage space in reservoirs;
 - (9) purchase, lease or other acquisition of a water right; and
 - (10) expenses incurred to construct and operate off-stream storage.
- (History: L. 2008 Ch. 40, § 1; L. 2011, ch. 74, § 5; July 1.)

K.S.A. 82a-1805. Republican River Water Conservation Projects – Nebraska Moneys Fund; Republican River Water Conservation Projects - Colorado Moneys Fund; Expenditures; Interest. (a) (1) Any person or entity may apply to the director of the Kansas water office for expenditure of moneys in the Arkansas river water conservation projects fund for the purposes set forth in paragraph (1) of subsection (a) of K.S.A. 82a-1801, and amendments thereto.

(2) Any person or entity may apply to the director of the Kansas water office for expenditure of moneys in the Republican river water conservation projects—Nebraska moneys fund and the Republican river water conservation projects—Colorado moneys fund for the purposes set forth in paragraphs (2) and (3) of subsection (a) of K.S.A. 82a-1801, and amendments thereto.

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

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

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

(History: L. 2008 Ch. 40, § 2; L. 2011, ch. 74, § 6; July 1.)