

Approved: 1-29-97
Date

MINUTES OF THE HOUSE COMMITTEE ON APPROPRIATIONS.

The meeting was called to order by Chairperson Phil Kline at 1:35 p.m. on January 28, 1997 in Room 514-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Russell Mills, Stuart Little, Legislative Research Department;
Jim Wilson, Mike Corrigan, Revisor of Statutes Office;
Marcia Ayres, Appropriations Secretary; Helen Abramson, Administrative Aide

Conferees appearing before the committee: Carla J. Stovall, Attorney General

Others attending: See attached list

Minutes of the January 22 and January 23 committee meetings were distributed for review. Chairperson Kline announced there were some bill introduction requests from state agencies including five from the Department of Corrections.

A motion was made by Representative Dean, seconded by Representative Minor, to accept five bills from the Department of Corrections for introduction. The motion carried.

A motion was made by Representative Neufeld, seconded by Representative Mollenkamp, to introduce a bill fixing the wording of SRS privatization contracts that license master level psychologists. The motion carried.

A motion was made by Representative Helgerson, seconded by Representative Packer, to introduce a bill regarding KPERS disability coverage. The motion carried.

Attorney General Carla Stovall was recognized to present an overview of the Kansas vs. Colorado case pending before the United States Supreme Court. She introduced some of her staff who were present and then testified regarding the history, status and future direction of the case. (Attachment 1)

Questions for the attorney general and her staff followed the presentation.

Chairperson Kline distributed a list of the subcommittee budgets and dates they are due. (Attachment 2) He reminded the members that there will be three single bills from the Appropriations Committee as was done last year. The Senate is going to try this method and as soon as both houses pass one of the bills, the conference committee will begin its work.

A motion was made by Representative Helgerson, seconded by Representative Wilk, to approve the minutes of January 22 and 23. The motion carried.

The meeting adjourned at 2:18 p.m.

The next meeting is scheduled for January 29, 1997.

APPROPRIATIONS COMMITTEE GUEST LIST

DATE: January 28, 1997

NAME	REPRESENTING
Amie Graves	Intern ^{Rep} Mel Miner
Dan Aichel	Emporia
Selma C. Blk	DWR - KOA
Amy Aufdemberge	City of Hays City of Garden City
MARICHA BATES	EMPORIA
Jill Bridges	DOB
Bernie Koch	Wichita Area Chamber
Alan Steppet	Pete McCoill & Assoc.
Jodi Alonzo	Atty General Office
Neil Woermen	Attorney General's Office
Don Pitts	Attorney General Office



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HOUSE COMMITTEE ON APPROPRIATIONS

TESTIMONY REGARDING
HISTORY AND STATUS OF
KANSAS v. COLORADO

by

Carla J. Stovall
Attorney General
January 28, 1997

Mr. Chairman, Members of the Committee, I have been requested to present an overview of the Kansas vs. Colorado case pending before the United States Supreme Court: its history, status and future direction.

The controversy in this case originates at the turn of the Century. It is, in fact, the oldest active controversy before the United States Supreme Court. In 1901, Kansas brought the first interstate controversy over an interstate stream before the Supreme Court. The Court affirmed for the first time that such a case would lie in the original jurisdiction of the U.S. Supreme Court. Kansas, however, failed to convince the Supreme Court that water uses in Colorado should be limited.

In 1928, the controversy was again brought before the Court by Colorado. Water users in Kansas between the State line and Garden City had brought several actions against Colorado water users in federal district court. Colorado petitioned the United States Supreme Court to obtain protection against the private litigation brought by those Kansas irrigators. Kansas counterclaimed alleging that the depletions by Colorado users had significantly increased since the time of the first lawsuit, and, that Colorado should be enjoined from making such additional depletions. The Special Master appointed by the Supreme Court agreed with Kansas and recommended that the flows be divided between Colorado and Kansas with Kansas retaining 1/6 of the flows. The Supreme Court did not accept the Special Master's recommendation, however, and held that Kansas had neither sustained its allegations that Colorado's use had materially increased since the last lawsuit nor had proven that the increase had caused a serious detriment to

the substantial interests of Kansas. After 15 years of litigation, the Supreme Court, in 1943, strongly recommended that the States settle their differences under the Compact Clause of the United States Constitution.

The states heeded the suggestion of the Supreme Court and began negotiating the present Arkansas River Compact. These negotiations took place during the years 1946-48: the final version of the Compact was agreed upon in December of 1948. Ratification by the State legislatures, the United States Congress, and approval by the President, took place in the first six months of 1949. The legislative enactment and text of the Compact can be found at K.S.A. §82a-520 *et seq.* (A copy of that statute along with a map of the Arkansas River Basin has been provided to you.) The Arkansas River Compact equitably apportions the waters of the Arkansas River and the benefits arising from John Martin Reservoir. It was based explicitly on the 1943 decision in Colorado v. Kansas. The key provision for purposes of Kansas' current claims against Colorado is Article IV-D:

This compact is not intended to impede or prevent future beneficial development of the Arkansas River basin in Colorado and Kansas by Federal or State agencies, by private enterprise, or by combinations thereof, . . . **Provided, that the waters of the Arkansas River, as defined in Article III, shall not be materially depleted in usable quantity or availability for use to the water users in Colorado and Kansas** under this Compact by such future development or construction. [Emphasis added]

The final proviso prohibits material depletion of Arkansas River waters in usable quantity or availability for use to water users in Colorado and Kansas by future development or construction.

From 1949 to the present day the Arkansas River Compact Administration (ARCA), which was created by the Compact, has administered the provisions of the Compact. ARCA is comprised of seven members, including three appointments by the governor of each state and a chairman appointed by the President of the United States. The present Kansas representatives to ARCA are David L. Pope, Chief Engineer of the Kansas Department of Agriculture, Division of Water Resources, Robert Buerkle of Holcomb, Kansas and Eugene Overton of Syracuse, Kansas. (Ditch companies) Each state is allowed one vote and the chairman has no voting power. Consequently, both States must agree before ARCA can take any action.

In December of 1985, after repeated unsuccessful attempts to obtain redress before ARCA my predecessor, Attorney General Robert T. Stephan, filed the present suit against the State of Colorado in the original jurisdiction of the United States Supreme Court. Kansas alleged that the Compact had been violated by increased post-compact well pumping along the Arkansas River in Colorado. Initially, Kansas sought only a decree commanding that the waters of the Arkansas River be delivered in accordance with the provisions of the Compact. However, in 1987, the United States Supreme Court in the case of Texas v. New Mexico, 482 U.S. 124 (1987), ruled that money damages could be recovered in water compact enforcement cases. Kansas therefore filed a motion to amend its complaint and was allowed to include money

damages for most violations.

In October of 1987, the Court appointed Arthur L. Littleworth, a well known water lawyer from Riverside, California as Special Master. He continues to serve in that capacity. The Special Master, upon Kansas motion bifurcated the liability phase of the case from the remedies phase of the case.

In September of 1990, the trial on the issue of liability commenced in Pasadena, California. It consisted of 141 actual trial days and was completed in December of 1992. The reporter's transcript for the liability phase comes to almost 20,000 pages and the number of exhibits identified by the parties was in excess of 2,000, many of which were documents themselves containing many pages.

At the conclusion of the trial in the liability phase, the Special Master issued a report, including recommendations, in July of 1994. The Special Master stated in his Report:

The major issue in the trial, and in Part I of this report is whether post-compact well pumping in Colorado has violated Article IV-D of the Arkansas River Compact. **I recommend that the court find that such a violation has occurred and that Kansas prevail on this issue.** [Emphasis added]

In March of 1995, oral arguments were held before the United States Supreme Court in Washington, D.C. In May of that year, in an opinion by Chief Justice Rehnquist, the Court unanimously affirmed the Special Master's Final report. The Court held that the State of Colorado was liable for violating Article IV-D of the Arkansas River Compact by allowing increased post-compact well pumping in Colorado.

The case was remanded to the Special Master for consideration of the remedy and of the damage issues. As a part of the remedies phase of the case, the Special Master has determined, on the basis of a stipulation between the states, that the depletions to usable stateline flow caused by post-compact well pumping in Colorado for the period 1950-85 were 328,505 acre feet of water. (One acre foot is 325,851 gallons.)

From September of 1995 through December of 1996, numerous depositions and an additional 22 days of trial were conducted. There have been 163 days of trial to date. At issue in the most recent trial phase is the quantification of depletions to usable stateline flow for the period 1986-94 as well as Colorado's efforts toward compliance.

Today we are awaiting the report of the Special Master to the United States Supreme Court which will contain his recommendations concerning quantification of depletions for the period from 1986-94 along with several legal issues. We anticipate that the Special Master will issue this report by May of this year. Once the report of the Special Master is filed with the Court and if either state takes exception with the report arguments will be held before the United States

Supreme Court in Washington, D.C. perhaps in December of this year or January of 1998. If the above estimated schedule is correct, a final opinion on those issues would perhaps issue from the Court by March of 1998.

In the meantime, several issues face the Special Master in the months and years ahead: the form of and measure of damages; the applicability of prejudgment interest; and the adequacy of Colorado's present and future compliance with the Compact.

Kansas has requested that the repayment for past violations be made in the form of money. Colorado has requested that it be allowed to repay in water. Both states have filed briefs concerning these issues with Kansas arguing that her damages should be measured by the benefit derived by Colorado from the water wrongfully retained if that exceeds the loss Kansas suffered by the deprivation. It is anticipated that the Special Master will order evidentiary hearings on these issues.

Kansas is also arguing that prejudgment interest is vital to a complete remedy. Unless Colorado is required to return interest with each acre foot of water wrongfully taken since 1950, Kansas will not be made whole and Colorado will have no incentive to comply with the Compact in the future. The same is true whether the repayment is in the form of money or water.

The third aspect of the case that will continue to be a source of contention is the issue of Colorado's present and future compliance with the Compact. Colorado proposes to continue pumping with the post-compact wells and has promulgated new rules requiring replacement of depletions caused by post-compact well pumping. Kansas, however, has significant reservations about the adequacy of Colorado's replacement program and is of the opinion that Colorado has thus far failed to demonstrate sufficient accuracy in the calculation of the depletions to be replaced. These issues will undoubtedly require additional evidentiary hearings before the Special Master.

Included as a component of the compliance issue is the proposal of a new account in John Martin reservoir for deposit of replacement water. Colorado would fund the account with replacement water which Kansas would be able to call for as needed. The states have achieved a surprising amount of agreement on some of the general principles for such an account, but considerable distance between the parties still exists on several major issues. The states have set a date of February 5, 1997 as a deadline for finalization of such an agreement. If the states cannot mutually agree, the Special Master will most likely order briefs on the issue of his authority to order such an agreement.

Kansas has recently achieved a great deal of success on issues which have been tried off and on since the turn of the Century. The United States Supreme Court has, in the current case, finally recognized that Colorado has violated the Compact and deprived Kansas of its water. In 1996, Colorado replaced approximately 8,400 acre feet of water at the stateline. Although not entirely adequate in our opinion, this is additional water that has crossed the stateline into

Kansas, as a direct result of this case. The amount of past depletions will be determined by the Court to be in the range of 328,505 - 420,000 acre feet. That amount in either water or its monetary value will be repaid to Kansas, as a direct result of this case. These and the other remaining decisions by the Special Master and the Court will have a significant effect on the economy of Southwest Kansas and the State as a whole.

A major battle has been won, however, the war is not over. We have won the threshold issue of liability, however, we must remain vigilant in this effort to obtain full compensation for Colorado's past violations and require Colorado's full compliance with the Arkansas River Compact in the future.

property or works of whatsoever kind, to make any payments to any State or political subdivision thereof, state agency, municipality, or entity whatsoever in reimbursement for the loss of taxes:

(c) To subject any property of the United States, its agencies or instrumentalities, to the laws of any State to any extent other than the extent these laws would apply without regard to this compact.

ARTICLE XI

This compact shall become operative when ratified by the Legislature of each of the States, and when consented to by the Congress of the United States by legislation providing, among other things that:

(a) Any beneficial consumptive uses by the United States, or those acting by or under its authority, within a state, of the waters allocated by this compact, shall be made within the allocations hereinabove made for use in that State and shall be taken into account in determining the extent of use within that State.

(b) The United States, or those acting by or under its authority, in the exercise of rights or powers arising from whatever jurisdiction the United States has in, over, and to the waters of the Basin shall recognize, to the extent consistent with the best utilization of the waters for multiple purposes, that beneficial consumptive uses of the waters within the Basin is of paramount importance to the development of the Basin; and no exercise of such power or right thereby that would interfere with the full beneficial consumptive use of the waters within the Basin shall be made except upon a determination, giving due consideration to the objectives of this compact and after consultation with all interested federal agencies and the state officials charged with the administration of this compact, that such exercise is in the interest of the best utilization of such waters for multiple purposes.

(c) The United States, or those acting by or under its authority, will recognize the established use, for domestic and irrigation purposes of the waters allocated by this compact which may be impaired by the exercise of federal jurisdiction in, over, and to such waters; provided, that such use is being exercised beneficially, is valid under the laws of the appropriate State and in conformity with this compact at the time of the impairment thereof, and was validly initiated under state law prior to the initiation or authorization of the federal program or project which causes such impairment.

IN WITNESS WHEREOF, the Commissioners have signed this compact in quadruplicate original, one of which shall be deposited in the archives of the Department of State of the United States of America and shall be deemed the authoritative original, and of which a duly certified copy shall be forwarded to the Governor of each of the States.

Done in the city of Lincoln, in the State of Nebraska, on the 31st day of December, in the year of our Lord, one thousand nine hundred forty-two.

M.C. HINDERLIDER
Commissioner for Colorado
GEORGE S. KNAPP
Commissioner for Kansas
WARDNER G. SCOTT
Commissioner for Nebraska

I have participated in the negotiations leading to this proposed compact and propose to report to the Congress of the United States favorably thereon.

GLENN L. PARKER
Representative of the United States

History: L. 1943, ch. 335, § 1; June 28.

Revisor's Note

Compact ratified by congress and approved by president, May 26, 1943, see 57 Stat. 86; map appears on page 585.

Law Review and Bar Journal References:

"Legal Constraints on Diverting Water from Eastern Kansas to Western Kansas," John C. Peck, 30 K.L.R. 160, 167, 194 (1982).

"Legal Aspects of Kansas Water Resources Planning," John C. Peck and Doris K. Nagel, 37 K.L.R. 199 (1989).

CASE ANNOTATIONS

1. Mentioned in discussing changes in water rights resulting from enactment of Water Appropriation Act (82a-701 et seq.). Williams v. City of Wichita, 190 K. 317, 344, 374 P.2d 578.

ARKANSAS RIVER AND TRIBUTARIES

82a-519.

History: L. 1945, ch. 217, § 1; L. 1947, ch. 492, § 1; Repealed, L. 1951, ch. 526, § 1; June 30.

Source or prior law:
42-201.

82a-520. Arkansas river compact. The legislature hereby ratifies the compact, designated as the "Arkansas river compact," between the states of Colorado and Kansas signed in the city of Denver, state of Colorado on the fourteenth day of December, C.A.D. 1948, by Henry C. Vidal, Gail L. Ireland and Harry B. Mendenhall as commissioners for the state of Colorado, George S. Knapp, Edward F. Arn, William E. Leavitt and Roland H. Tate as commissioners for the state of Kansas, and by Hans Kramer as the representative of the United States of America, which compact is as follows:

ARKANSAS RIVER COMPACT

The State of Colorado and the State of Kansas, parties signatory to this Compact (hereinafter referred to as "Colorado" and "Kansas," respectively, or individually as a "state," or collectively as the "states") having resolved to conclude a compact with respect to the waters of the Arkansas river, and being moved by considerations of interstate comity, having appointed commissioners as follows:

HENRY C. VIDAL, GAIL L. IRELAND, and HARRY B. MENDENHALL, for Colorado; and
GEORGE S. KNAPP, EDWARD F. ARN, WILLIAM E. LEAVITT, and ROLAND H. TATE, for Kansas;

and the consent of the Congress of the United States to negotiate and enter into an interstate compact not later than January 1, 1950, having been granted by Public Law 34, 79th Congress, 1st Session, and pursuant thereto the President having designated Hans Kramer as the representative of the United States, the said commissioners for Colorado and Kansas, after negotiations participated in by the representative of the United States, have agreed as follows:

1-6

ARTICLE I

The major purposes of this Compact are to:

A. Settle existing disputes and remove causes of future controversy between the states of Colorado and Kansas, and between citizens of one and citizens of the other state, concerning the waters of the Arkansas river and their control, conservation and utilization for irrigation and other beneficial purposes.

B. Equitably divide and apportion between the states of Colorado and Kansas the waters of the Arkansas river and their utilization as well as the benefits arising from the construction, operation and maintenance by the United States of John Martin Reservoir Project for water conservation purposes.

ARTICLE II

The provisions of this Compact are based on (1) the physical and other conditions peculiar to the Arkansas river and its natural drainage basin, and the nature and location of irrigation and other developments and facilities in connection therewith; (2) the opinion of the United States Supreme Court entered December 6, 1943, in the case of *Colorado v. Kansas* (320 U.S. 383) concerning the relative rights of the respective states in and to the use of waters of the Arkansas river; and (3) the experience derived under various interim executive agreements between the two states apportioning the waters released from the John Martin Reservoir as operated by the Corps of Engineers.

ARTICLE III

As used in this Compact:

A. The word "state line" means the geographical boundary line between Colorado and Kansas.

B. The term "waters of the Arkansas river" means the waters originating in the natural drainage basin of the Arkansas river, including its tributaries, upstream from the state line, and excluding waters brought into the Arkansas river basin from other river basins.

C. The term "state-line flow" means the flow of waters of the Arkansas river as determined by gaging stations located at or near the state line. The flow as determined by such stations, whether located in Colorado or Kansas, shall be deemed to be the actual state-line flow.

D. "John Martin Reservoir Project" is the official name of the facility formerly known as Caddoa Reservoir Project, authorized by the Flood Control Act of 1936, as amended, for construction, operation and maintenance by the War Department, Corps of Engineers, later designated as the Corps of Engineers, Department of the Army, and herein referred to as the "Corps of Engineers." "John Martin Reservoir" is the water storage space created by "John Martin Dam."

E. The "flood control storage" is that portion of the total storage space in John Martin Reservoir allocated to flood control purposes.

F. The "conservation pool" is that portion of the total storage space in John Martin Reservoir lying below the flood control storage.

G. The "ditches of Colorado Water District 67" are those ditches and canals which divert water from the Arkansas river or its tributaries downstream from John Martin Dam for irrigation use in Colorado.

H. The term "river flow" means the sum of the flows of the Arkansas and the Purgatoire into John Martin Reservoir as determined by gaging stations appropriately located above said Reservoir.

I. The term "the Administration" means the Arkansas River Compact Administration established under Article VIII.

ARTICLE IV

Both states recognize that:

A. This Compact deals only with the waters of the Arkansas river as defined in Article III.

B. This Compact is not concerned with the rights, if any, of the state of New Mexico or its citizens in and to the use in New Mexico of waters of Trinchera creek or other tributaries of the Purgatoire river, a tributary of the Arkansas river.

C. (1) John Martin Dam will be operated by the Corps of Engineers to store and release the waters of the Arkansas river in and from John Martin Reservoir for its authorized purposes.

(2) The bottom of the flood control storage is presently fixed by the Chief of Engineers, U.S. Army, at elevation 3,851 feet above mean sea level. The flood control storage will be operated for flood control purposes and to those ends will impound or regulate the streamflow volumes that are in excess of the then available storage capacity of the conservation pool. Releases from the flood control storage may be made at times and rates determined by the Corps of Engineers to be necessary or advisable without regard to ditch diversion capacities or requirements in either or both states.

(3) The conservation pool will be operated for the benefit of water users in Colorado and Kansas, both upstream and downstream from John Martin Dam, as provided in this Compact. The maintenance of John Martin Dam and appurtenant works may at times require the Corps of Engineers to release waters then impounded in the conservation pool or to prohibit the storage of water therein until such maintenance work is completed. Flood control operation may also involve temporary utilization of conservation storage.

D. This Compact is not intended to impede or prevent future beneficial development of the Arkansas river basin in Colorado and Kansas by federal or state agencies, by private enterprise, or by combinations thereof, which may involve construction of dams, reservoirs and other works for the purposes of water utilization and control, as well as the improved or prolonged functioning of existing works: *Provided*, That the waters of the Arkansas river, as defined in Article III, shall not be materially depleted in usable quantity or availability for use to the water users in Colorado and Kansas under this Compact by such future developments or construction.

ARTICLE V

Colorado and Kansas hereby agree upon the following basis of apportionment of the waters of the Arkansas river:

A. Winter storage in John Martin Reservoir shall commence on November 1st of each year and continue to and include the next succeeding March 31st. During said period all water entering said reservoir up to the limit of the then available conservation capacity shall be stored: *Provided*, That Colorado may demand releases of water equivalent to the river flow, but such releases shall not exceed 100 c.f.s. (cubic feet per second) and water so released shall be used without avoidable waste.

B. Summer storage in John Martin Reservoir shall commence on April 1st of each year and continue to and include the next succeeding October 31st. During said

period, except when Colorado water users are operating under decreed priorities as provided in paragraphs F and G of this Article, all water entering said reservoir up to the limit of the then available conservation capacity shall be stored: *Provided*, That Colorado may demand releases of water equivalent to the river flow up to 500 c.f.s., and Kansas may demand releases of water equivalent to that portion of the river flow between 500 c.f.s., and 750 c.f.s., irrespective of releases demanded by Colorado.

C. Releases of water stored pursuant to the provisions of paragraphs A and B of this Article shall be made upon demands by Colorado and Kansas concurrently or separately at any time during the summer storage period. Unless increases to meet extraordinary conditions are authorized by the Administration, separate releases of stored water to Colorado shall not exceed 750 c.f.s., separate releases of stored water to Kansas shall not exceed 500 c.f.s., and concurrent releases of stored water shall not exceed a total of 1,250 c.f.s.: *Provided*, That when water stored in the conservation pool is reduced to a quantity less than 20,000 acre-feet, separate releases of stored water to Colorado shall not exceed 600 c.f.s., separate releases of stored water to Kansas shall not exceed 400 c.f.s., and concurrent releases of stored water shall not exceed 1,000 c.f.s.

D. Releases authorized by paragraphs A, B and C of this Article, except when all Colorado water users are operating under decreed priorities as provided in paragraphs F and G of this Article, shall not impose any call on Colorado water users that divert waters of the Arkansas river upstream from John Martin Dam.

E. (1) Releases of stored water and releases of river flow may be made simultaneously upon the demands of either or both States.

(2) Water released upon concurrent or separate demands shall be applied promptly to beneficial use unless storage thereof downstream is authorized by the Administration.

(3) Releases of river flow and of stored water to Colorado shall be measured by gaging stations located at or near John Martin Dam and the releases to which Kansas is entitled shall be satisfied by an equivalent in state-line flow.

(4) When water is released from John Martin Reservoir appropriate allowances as determined by the Administration shall be made for the intervals of time required for such water to arrive at the points of diversion in Colorado and at the state line.

(5) There shall be no allowance or accumulation of credits or debits for or against either state.

(6) Storage, releases from storage and releases of river flow authorized in this Article shall be accomplished pursuant to procedures prescribed by the Administration under the provisions of Article VIII.

F. In the event the Administration finds that within a period of fourteen (14) days the water in the conservation pool will be or is liable to be exhausted, the Administration shall forthwith notify the State Engineer of Colorado, or his duly authorized representative, that commencing upon a day certain within said fourteen (14) day period, unless a change of conditions justifies cancellation or modification of such notice, Colorado shall administer the decreed rights of water users in Colorado Water District 67 as against each other and as against all rights now or hereafter decreed to water users diverting upstream from John Mar-

tin Dam on the basis of relative priorities in the same manner in which their respective priority rights were administered by Colorado before John Martin Reservoir began to operate and as though John Martin Dam had not been constructed. Such priority administration by Colorado shall be continued until the Administration finds that water is again available in the conservation pool for release as provided in this Compact, and timely notice of such finding shall be given by the Administration to the State Engineer of Colorado or his duly authorized representative: *Provided*, That except as controlled by the operation of the preceding provisions of this paragraph and other applicable provisions of this Compact, when there is water in the conservation pool the water users upstream from John Martin Reservoir shall not be affected by the decrees to the ditches in Colorado Water District 67. Except when administration in Colorado is on a priority basis the water diversions in Colorado Water District 67 shall be administered by Colorado in accordance with distribution agreements made from time to time between the water users in such District and filed with the Administration and with the State Engineer of Colorado or, in the absence of such agreement, upon the basis of the respective priority decrees, as against each other, in said District.

G. During periods when Colorado reverts to administration of decreed priorities, Kansas shall not be entitled to any portion of the river flow entering John Martin Reservoir. Waters of the Arkansas river originating in Colorado which may flow across the state line during such periods are hereby apportioned to Kansas.

H. If the usable quantity and availability for use of the waters of the Arkansas river to water users in Colorado Water District 67 and Kansas will be thereby materially depleted or adversely affected, (1) priority rights now decreed to the ditches of Colorado Water District 67 shall not hereafter be transferred to other water districts in Colorado or to points of diversion or places of use upstream from John Martin Dam; and (2) the ditch diversion rights from the Arkansas river in Colorado Water District 67 and of Kansas ditches between the state line and Garden City shall not hereafter be increased beyond the total present rights of said ditches, without the Administration, in either case (1) or (2), making findings of fact that no such depletion or adverse effect will result from such proposed transfer or increase. Notice of legal proceedings for any such proposed transfer or increase shall be given to the Administration in the manner and within the time provided by the laws of Colorado or Kansas in such cases.

ARTICLE VI

A. (1) Nothing in this Compact shall be construed as impairing the jurisdiction of Kansas over the waters of the Arkansas river that originate in Kansas and over the waters that flow from Colorado across the state line into Kansas.

(2) Except as otherwise provided, nothing in this Compact shall be construed as supplanting the administration by Colorado of the rights of appropriators of waters of the Arkansas river in said state as decreed to said appropriators by the courts of Colorado, nor as interfering with the distribution among said appropriators by Colorado, nor as curtailing the diversion and use for irrigation and other beneficial purposes in Colorado of the waters of the Arkansas river.

B. Inasmuch as the Frontier Canal diverts waters of the Arkansas river in Colorado west of the state line for irrigation uses in Kansas only, Colorado concedes to Kansas

and Kansas hereby assumes exclusive administrative control over the operation of the Frontier Canal and its headworks for such purposes, to the same extent as though said works were located entirely within the state of Kansas. Water carried across the state line in the Frontier Canal or any other similarly situated canal shall be considered to be part of the state line flow.

ARTICLE VII

A. Each state shall be subject to the terms of this Compact. Where the name of the state or the term "state" is used in this Compact these shall be construed to include any person or entity of any nature whatsoever using, claiming or in any manner asserting any right to the use of the waters of the Arkansas river under the authority of that state.

B. This Compact establishes no general principle or precedent with respect to any other interstate stream.

C. Wherever any state or federal official or agency is referred to in this Compact such reference shall apply to the comparable official or agency succeeding to their duties and functions.

ARTICLE VIII

A. To administer the provisions of this Compact there is hereby created an interstate agency to be known as the Arkansas River Compact Administration herein designated as "the Administration."

B. The Administration shall have power to:

(1) Adopt, amend and revoke bylaws, rules and regulations consistent with the provisions of this Compact;

(2) Prescribe procedures for the administration of this Compact: *Provided*, That where such procedures involve the operation of John Martin Reservoir Project they shall be subject to the approval of the District Engineer in charge of said project;

(3) Perform all functions required to implement this Compact and to do all things necessary, proper or convenient in the performance of its duties.

C. The membership of the Administration shall consist of three representatives from each state who shall be appointed by the respective governors for a term not to exceed four years. One Colorado representative shall be a resident of and water-right owner in Water Districts 14 or 17, one Colorado representative shall be a resident of and water-right owner in Water District 67, and one Colorado representative shall be the Director of the Colorado Water Conservation Board. Two Kansas representatives shall be residents of and water-right owners in the counties of Finney, Kearny or Hamilton, and one Kansas representative shall be the chief state official charged with the administration of water rights in Kansas. The President of the United States is hereby requested to designate a representative of the United States, and if a representative is so designated he shall be an ex officio member and act as chairman of the Administration without vote.

D. The state representatives shall be appointed by the respective governors within thirty days after the effective date of this Compact. The Administration shall meet and organize within sixty days after such effective date. A quorum for any meeting shall consist of four members of the Administration: *Provided*, That at least two members are present from each state. Each state shall have but one vote in the Administration and every decision, authorization or other action shall require unanimous vote. In case of a divided vote on any matter within the purview

of the Administration, the Administration may, by subsequent unanimous vote, refer the matter for arbitration to the Representative of the United States or other arbitrator or arbitrators, in which event the decision made by such arbitrator or arbitrators shall be binding upon the Administration.

E. (1) The salaries, if any, and the personal expenses of each member shall be paid by the government which he represents. All other expenses incident to the administration of this Compact which are not paid by the United States shall be borne by the states on the basis of 60 percent by Colorado and 40 percent by Kansas.

(2) In each even numbered year the Administration shall adopt and transmit to the governor of each state its budget covering anticipated expenses for the forthcoming biennium and the amount thereof payable by each state. Each state shall appropriate and pay the amount due by it to the Administration.

(3) The Administration shall keep accurate accounts of all receipts and disbursements and shall include a statement thereof, together with a certificate of audit by a certified public accountant in its annual report. Each state shall have the right to make an examination and audit of the accounts of the Administration at any time.

F. Each state shall provide such available facilities, equipment and other assistance as the Administration may need to carry out its duties. To supplement such available assistance the Administration may employ engineering, legal, clerical and other aid as in its judgment may be necessary for the performance of its functions. Such employees shall be paid by and be responsible to the Administration, and shall not be considered to be employees of either state.

G. (1) The Administration shall cooperate with the chief official of each state charged with the administration of water rights and with federal agencies in the systematic determination and correlation of the facts as to the flow and diversion of the waters of the Arkansas river and as to the operation and siltation of John Martin Reservoir and other related structures. The Administration shall cooperate in the procurement, interchange, compilation and publication of all factual data bearing upon the Administration of this Compact without, in general, duplicating measurements, observations or publications made by state or federal agencies. State officials shall furnish pertinent factual data to the Administration upon its request. The Administration shall, with the collaboration of the appropriate federal and state agencies, determine as may be necessary from time to time, the location of gaging stations required for the proper administration of this Compact and shall designate the official records of such stations for its official use.

(2) The Director, U.S. Geological Survey, the Commissioner of Reclamation and the Chief of Engineers, U.S. Army, are hereby requested to collaborate with the Administration and with appropriate state officials in the systematic determination and correlation of data referred to in paragraph G (1) of this Article and in the execution of other duties of such officials which may be necessary for the proper administration of this Compact.

(3) If deemed necessary for the administration of this Compact, the Administration may require the installation and maintenance, at the expense of water users, of measuring devices of approved type in any ditch or group of ditches diverting water from the Arkansas river in Colorado

or Kansas. The chief official of each state charged with the administration of water rights shall supervise the execution of the Administration's requirements for such installations.

H. Violations of any of the provisions of this Compact or other actions prejudicial thereto which come to the attention of the Administration shall be promptly investigated by it. When deemed advisable as the result of such investigation, the Administration may report its findings and recommendations to the state official who is charged with the administration of water rights for appropriate action, it being the intent of this Compact that enforcement of its terms shall be accomplished in general through the state agencies and officials charged with the administration of water rights.

I. Findings of fact made by the Administration shall not be conclusive in any court or before any agency or tribunal but shall constitute prima facie evidence of the facts found.

J. The Administration shall report annually to the Governor of the States and to the President of the United States as to matters within its purview.

ARTICLE IX

A. This Compact shall become effective when ratified by the Legislature of each State and when consented to by the Congress of the United States by legislation providing substantially, among other things, as follows:

Nothing contained in this Act or in the Compact herein consented to shall be construed as impairing or affecting the sovereignty of the United States or any of its rights or jurisdiction in and over the area or waters which are the subject of such Compact: *Provided*, That the Chief of Engineers is hereby authorized to operate the conservation features of the John Martin Reservoir Project in a manner conforming to such Compact with such exceptions as he and the Administration created pursuant to the Compact may jointly approve.

B. This Compact shall remain in effect until modified or terminated by unanimous action of the states and in the event of modification or termination all rights then established or recognized by this Compact shall continue unimpaired.

IN Witness Whereof, The commissioners have signed this Compact in triplicate original, one of which shall be forwarded to the Secretary of State of the United States of America and one of which shall be forwarded to the governor of each signatory state.

DONE in the City and County of Denver, in the state of Colorado, on the fourteenth day of December, in the Year of our Lord One Thousand Nine Hundred and Forty-eight.

HENRY C. VIDAL,
GAIL B. IRELAND,
HARRY B. MENDENHALL,
Commissioners for Colorado
GEORGE S. KNAPP,
EDWARD F. ARN,
WILLIAM E. LEAVITT,
ROLAND H. TATE,
Commissioners for Kansas.

ATTEST:

WARDEN L. NOE, *Secretary*

APPROVED:

HANS KRAMER,
Representative of the United States.

History: L. 1949, ch. 509, § 1; June 30.

Revisor's Note:

Ratified by congress and approved by the president, May 31, 1949.

Law Review and Bar Journal References:

"Legal Constraints on Diverting Water from Eastern Kansas to Western Kansas," John C. Peck, 30 K.L.R. 160, 167 (1982).

"The Parting of the Waters—The Dispute Between Colorado and Kansas Over the Arkansas River," Mark J. Wagner, 24 W.L.J. 99 (1984).

MISSOURI RIVER BOUNDARY LINE AGREEMENT

Revisor's Note:

Ratified by congress and approved by the president, August 3, 1950.

Cross References to Related Sections:

Consolidation of certain drainage or levee districts, see ch. 24, art. 11.

Boundaries of Atchison and Doniphan counties, see 18-103 and 18-122.

82a-521. Missouri river as boundary line, when. Upon the ratification of this act and a similar act of the state of Missouri by the congress of the United States, the center of the channel of the Missouri river, as its flow extends from its intersection with the fortieth (40th) parallel, north latitude, southward to the middle of the mouth of the Kansas or Kaw river, shall be that portion of the true and permanent boundary line between the states of Missouri and Kansas, subject only to changes which may occur by the natural processes of accretion and reliction, but not by avulsion.

History: L. 1949, ch. 510, § 1; Feb. 26.

Research and Practice Aids:

States ⇌ 12(2).

C.J.S. States § 18.

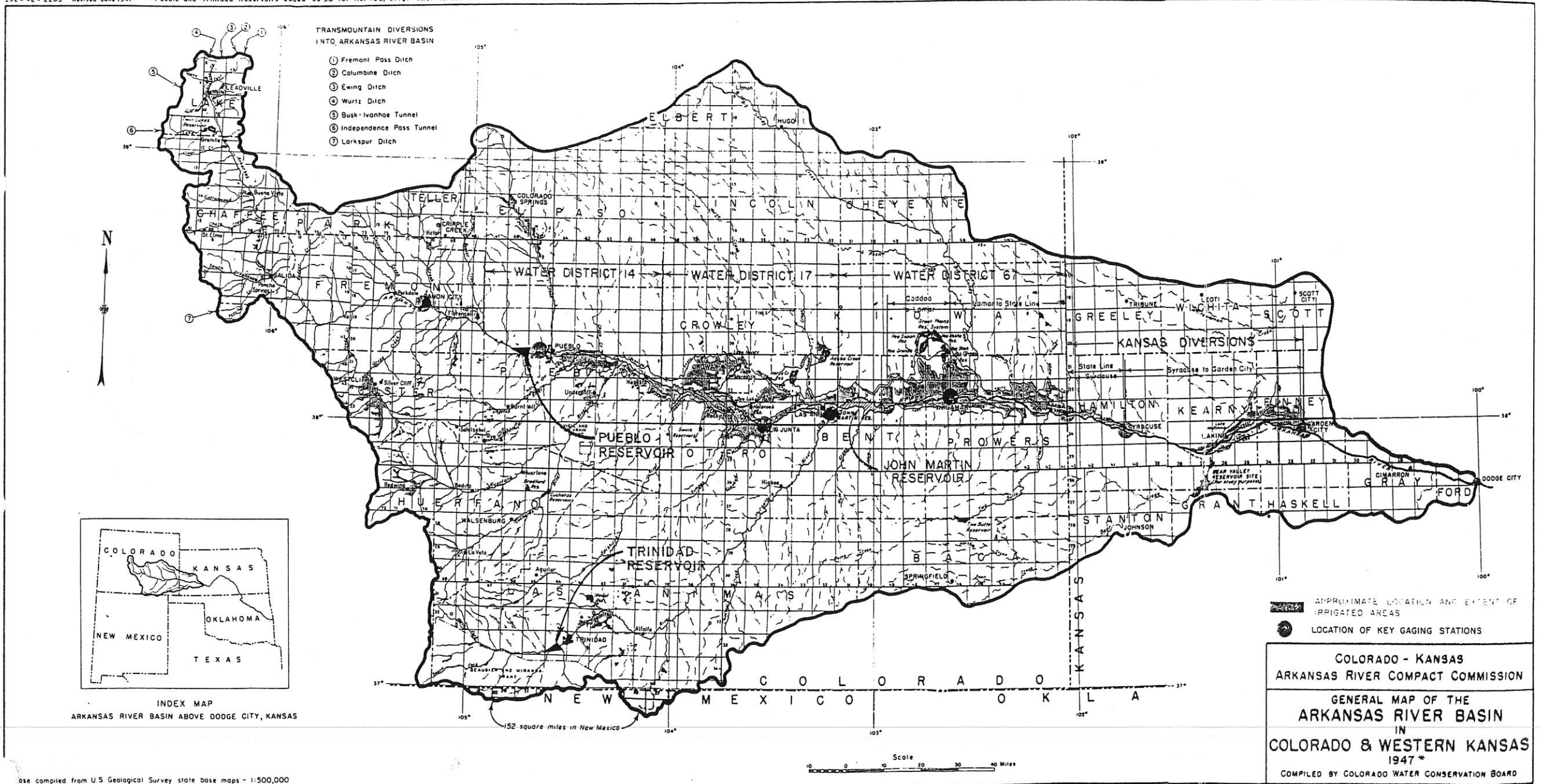
Law Review and Bar Journal References:

"Legal Constraints on Diverting Water from Eastern Kansas to Western Kansas," John C. Peck, 30 K.L.R. 160, 163, 167, (1982).

82a-522. Same; relinquishment of sovereignty. The state of Kansas hereby relinquishes to the state of Missouri all sovereignty over all lands lying on the Missouri side of said center of the channel of the Missouri river.

History: L. 1949, ch. 510, § 2; Feb. 26.

82a-523. Same; real estate titles. The public record of real estate titles in the state of Missouri to any lands, the sovereignty over which is relinquished by the state of Missouri to the state of Kansas, shall be accepted as evidence of the record title to such lands, to and including the effective date of such relinquishment by the state of Missouri, by the courts of the state of Kansas.



1997 HOUSE APPROPRIATIONS SUBCOMMITTEES

Education and Legislative Operations:

Subcommittee Chairperson: Representative Farmer

Subcommittee Members: Representative Edmonds
 Representative Wilk
 Representative Minor
 Representative Reinhardt

Agency	Fiscal Staff	Final Committee Action
Department of Education	Rampey	3-6
Kansas Historical Society	Mah	2-13
Kansas Arts Commission	Mah	2-13
School for the Blind	Burenheide	2-13
School for the Deaf	Burenheide	2-13
State Library	Milstead	2-13
Council on Vocational Education	Rampey	2-13
Regents Systemwide	Robinson/Mills	2-11
Wichita State University	Robinson	2-20
University of Kansas	Robinson	2-20
University of Kansas Medical Center	Porter	2-20
Kansas State University	Robinson	2-20
KSU-Extension Systems and Agricultural Research Program	Robinson	2-20
KSU-Veterinary Medical Center	Robinson	2-20
KSU-Salina, College of Technology	Robinson	2-20
Fort Hays State University	Mills	2-20
Emporia State University	Mills	2-20
Pittsburg State University	Mills	2-20
Board of Regents	Mills	2-20
Legislative Coordinating Council	Conroy	2-12
Legislative Research Department	Conroy	2-12
Revisor of Statutes	Conroy	2-12
Legislative Division of Post Audit	Conroy	2-12
Legislature	Conroy	2-12
Board of Pharmacy	Pierron	2-7
Kansas Dental Board	Pierron	2-7

*Appropriations
1-28-97
Attachment 2*

Corrections and Public Safety:

Subcommittee Chairperson: Representative Kejr

Subcommittee Members: Representative Weber
Representative McKechnie

<u>Agency</u>	<u>Fiscal Staff</u>	<u>Final Committee Action</u>
Department of Corrections	Little	3-5
Ellsworth Correctional Facility	Little	3-5
El Dorado Correctional Facility	Little	3-5
Hutchinson Correctional Facility	Little	3-5
Lansing Correctional Facility	Little	3-5
Larned Correctional Mental Health Facility	Little	3-5
Norton Correctional Facility	Little	3-5
Topeka Correctional Facility	Little	3-5
Winfield Correctional Facility	Little	3-5
Juvenile Justice Authority	Pierron	3-11
Youth Center at Topeka	Pierron	3-11
Youth Center at Beloit	Pierron	3-11
Youth Center at Atchison	Pierron	3-11
Youth Center at Larned	Pierron	3-11
Adjutant General	Mills	3-11
Kansas Bureau of Investigation	West	3-11
Ombudsman for Corrections	Little	3-11
Emergency Medical Services Board	Rampey	3-11
State Fire Marshal	Mills	3-11
Kansas Highway Patrol	Mills	3-11
Kansas Parole Board	Mills	3-11
Sentencing Commission	Mills	3-11
Board of Technical Professions	Rampey	2-7
Abstracters Board of Examiners	Burenheide	2-7
Board of Barbering	Kannarr	2-7
Board of Cosmetology	Kannarr	2-7

Agriculture and Natural Resources:

Subcommittee Chairperson: Representative Holmes

Subcommittee Members: Representative Toplikar
Representative Feuerborn

<u>Agency</u>	<u>Fiscal Staff</u>	<u>Final Committee Action</u>
Department of Agriculture	Cawby	2-24
Grain Inspection Department	Cawby	2-24
Kansas State Fair	Cawby	2-24
Kansas Wheat Commission	Cawby	2-24
State Conservation Commission	Cawby	2-24
Kansas Water Office	Cawby	2-24
Animal Health Department	Cawby	2-24
Department of Wildlife and Parks	Mills	2-24
Kansas Corporation Commission	Mah	2-17
Citizens Utility Ratepayer Board	Mah	2-17
Bank Commissioner	Burenheide	2-7
Consumer Credit Commissioner	Burenheide	2-7
Securities Commissioner	Burenheide	2-7
Department of Credit Unions	Burenheide	2-7
Board of Healing Arts	Pierron	2-7
Board of Nursing	Milstead	2-7

Social Services:

Subcommittee Chairperson: Representative Neufeld

Subcommittee Members: Representative Landwehr
Representative O'Connor
Representative Ballard
Representative Helgerson

Agency	Fiscal Staff	Final Committee Action
Department of Social and Rehabilitation Services (excluding the Division of Mental Health and Developmental Disabilities)	West	2-18
Kansas Guardianship Program	Kannarr	2-18
Department of Health and Environment	Mah	2-25
Department on Aging	Milstead	2-25
Long-Term Care	Milstead	2-25
Corporation for Change	West	2-18
Homestead Property Tax Refunds	Milstead	2-25
Commission on Veterans Affairs/Soldiers' Home	Milstead	2-25
Human Rights Commission	Milstead	2-17
Behavioral Sciences Regulatory Board	Milstead	2-7

State Hospitals and General Government:

Subcommittee Chairperson: Representative Pottorff

Subcommittee Members: Representative Phil Kline
 Representative Dean
 Representative Nichols

Agency	Fiscal Staff	Final Committee Action
Parsons State Hospital and Training Center	Kannarr	2-14
Winfield State Hospital and Training Center	Kannarr	2-14
Kansas Neurological Institute	Kannarr	2-14
Larned State Hospital	Kannarr	2-14
Osawatomie State Hospital	Kannarr	2-14
Rainbow Mental Health Facility	Kannarr	2-14
Topeka State Hospital	Kannarr	2-14
Div. of Mental Hlth. and Develop. Disab.	Kannarr	2-14
Dept. of Adminis. (inc. Public Broadcasting)	Porter	2-17
Comm. on Govt. Standards & Conduct	Pierron	2-17
Kansas Public Employees Retirement System	Efird	2-21
Department of Human Resources	Milstead	2-25
Attorney General	Rampey	2-12
Secretary of State	Pierron	2-12
Insurance Department	Mah	2-12
Health Care Stabilization Bd. of Governors	Mah	2-12
State Treasurer	Porter	2-12
Governor	Conroy	2-12
Lt. Governor.	Conroy	2-12
Optometry Board	Milstead	2-7
Board of Accountancy	Little	2-7
Board of Hearing Aid Examiners	Rampey	2-7
Board of Mortuary Arts	Little	2-7

Tax, Commerce, and Transportation:

Subcommittee Chairperson: Representative Mollenkamp

Subcommittee Members: Representative Packer
Representative Spangler

<u>Agency</u>	<u>Fiscal Staff</u>	<u>Final Committee Action</u>
Department of Transportation	Efird	2-10
Judicial Council	Porter	3-7
Board of Indigents' Defense Services	Porter	3-7
Judicial Branch	Porter	3-7
Department of Revenue	Cawby	3-10
Board of Tax Appeals	Rampey	3-10
Department of Commerce and Housing	Burenheide	3-10
Kansas, Inc.	Burenheide	3-10
Kansas Technology Enterprise Corporation	Burenheide	3-10
Kansas Lottery	Efird	3-10
Racing Commission	Efird	3-10
Real Estate Commission	Rampey	2-7
Real Estate Appraisal Board	Rampey	2-7
Board of Veterinary Examiners	Cawby	2-7