

STATE WATER PLAN STORAGE ACT
82a-1301 through 82a-1320
2005

K.S.A. 82a-1301. State water plan storage act; definitions. As used in this act, unless the context otherwise requires:

- (a) "Director" means the director of the Kansas water office.
- (b) "Chief engineer" means the chief engineer of the division of water resources of the Kansas department of agriculture.
- (c) "Authority" means the Kansas water authority.
- (d) "Person" means and includes a natural person, partnership, organization, association, private corporation, public corporation, any taxing district or political subdivision of the state, and any department or agency of the state government.
- (e) "Public corporation" means a body that has for its object the government of a political subdivision of this state and includes any county, township, city, district, authority, or other municipal corporation or political subdivision of this state.
- (f) "Federal government" means the United States of America or any department or agency thereof.
- (g) "Point of diversion for a reservoir" means the point where the longitudinal axis of the dam of a reservoir crosses the center of the streambed.
- (h) "Point of rediversion" means the point where released water is taken for beneficial use from the watercourse by which it is transported.
- (I) "Point of withdrawal from the reservoir" means the point at which water is taken from the reservoir by pump, siphon, canal or any other device or released through a dam by gates, conduits or any other means.
- (j) "Capital cost" means all costs, including the principal and interest thereon, incurred by the state in the construction or acquisition of conservation storage water supply capacity in the reservoir system from which water may be contracted for sale.
- (k) "Surplus waters" means waters within the conservation storage water supply capacity committed to the state, but not required to meet contractual requirements made pursuant to K.S.A. 82a-1305, and amendments thereto. (**History:** L. 1974, ch. 452, § 1; L. 1976, ch. 441, § 1; L. 1983, ch. 343, § 1; L. 1984, ch. 382, § 1; L. 1986, ch. 396, § 2; L. 2004, ch. 101, § 150: July 1.)

K.S.A. 82a-1302. Same; waters subject to act. Notwithstanding any other provision in the statutes of this state, waters in conservation storage water supply capacity in any reservoir on the effective date of this act on which the state has given a commitment are hereby recognized as waters belonging to the state subject to the provisions of this act. (**History:** L. 1974, ch. 452, § 2; L. 1986, ch. 396, § 3; July 1.)

K.S.A. 82a-1303. Same; state "water reservation rights"; acquisition by board; rights authorized to be acquired. (a) Notwithstanding any other provisions in the statutes of this state, the director, in the manner provided in K.S.A. 82a-1304, and amendments thereto, shall be authorized, subject to approval of the authority, to acquire on behalf of the state a water reservation right to divert and store the waters of all streams flowing into the conservation storage water supply capacity or into the conservation storage water quality capacity of any reservoirs in which the state controls storage space whether under contracts with the federal government or otherwise. A water reservation right for waters flowing into the conservation storage water supply capacity shall be in an amount sufficient to insure a yield of water from the reservoir for beneficial use through a drought having a 2% chance of occurrence in any one year with the reservoir in operation. A water reservation right for waters flowing into the conservation storage water quality capacity shall be in an annual amount equal to the volume of the conservation storage water quality capacity, as agreed upon by the director of the Kansas water office and the chief engineer. The rights of the state under this section and those which are acquired under K.S.A. 82a-1304, and amendments thereto, shall be subject to all vested rights, appropriation rights, applications filed for permits to appropriate water and other vested property interests acquired prior to the state's acquisition, but not to those acquired thereafter. The chief engineer shall provide as a condition to a water reservation right acquired under K.S.A. 82a-1304, and amendments thereto, for waters flowing into the conservation storage water quality capacity in any reservoir that the state may divert and store inflows under such right only at times when the inflows exceed certain threshold levels, to be agreed upon jointly by the chief engineer and the director of the Kansas water office.

(b) Whenever the authority shall determine that it is in the public interest to acquire, reserve or purchase water located in another state for this state's conservation storage water supply capacity, it shall authorize the director to enter into contract negotiations to acquire, reserve or purchase such water. Any such contract shall be subject to final approval of the authority. (**History:** L. 1974, ch. 452, § 3; L. 1983, ch. 343, § 2; L. 1986, ch. 394, § 4; July 1.)

K.S.A. 82a-1304. Same; "water reservation rights"; procedure for acquiring; notice, content; acceptance; filing, perfection of rights. The director, on behalf of the state, shall acquire a water reservation right by filing with the chief engineer a written notice which shall include the following:

- (a) The name of the stream on which the reservoir is located;
- (b) the reservoir on which a water reservation right is sought;
- (c) the legal description of the point of diversion for the reservoir;

(d) the storage space in the reservoir for supply or for water quality described in terms of elevation and design capacity;

(e) for a water reservation right for waters flowing into the conservation storage water supply capacity of any reservoir, hydrologic calculations for a drought having a 2% chance of occurrence in any one year with the reservoir in operation, specifying the rate of flow of streams into the reservoir and the volume of waters impounded in the reservoir that will be necessary to insure a yield of water from the reservoir for beneficial use;

(f) for a water reservation right for waters flowing into the conservation storage water quality capacity of any reservoir, information on rates of flow into the reservoir; and

(g) such other information which the chief engineer may request in carrying out provisions of this act.

Upon receiving any such filing, the chief engineer shall transmit to the director and the chairperson of the authority written acceptance thereof, or inform the director in writing that the notice does not comply with the above requirements in one or more ways, all of which shall be specified. Thereupon, the director shall modify the written notice as may be appropriate and return the notice to the chief engineer. When the written notice complies with the requirements of this section the chief engineer shall transmit to the director and the chairperson of the authority written acceptance thereof. Upon receipt of the written acceptance of the chief engineer as provided in this section, the director shall file, as other instruments affecting real estate, copies of the accepted written notice in the office of the register of deeds of the county or counties wherein the point of diversion for the reservoir is located; and such water reservation right shall thereby be perfected as of the date of original filing.

Nothing in this section shall require the director to acquire an appropriation right, or approval of the chief engineer, under article 7 of chapter 82a of Kansas Statutes Annotated. **(History:** L. 1974, ch. 452, § 4; L. 1983, ch. 343, § 3; L. 1986, ch. 394, § 5; July 1.)

K.S.A. 82a-1305. Same; withdrawal and use of waters; contracts for withdrawal; disposal of surplus water. (a) Whenever the authority finds that a proposed withdrawal and use of water, other than surplus waters, is in the interest of the people of the state of Kansas and will advance the purposes set forth in article 9 of chapter 82a of Kansas Statutes Annotated, and amendments thereto, it shall authorize the director to enter into negotiations for the purpose of entering into written contracts with any person for withdrawal and use within or without the state of waters from conservation storage water supply capacity committed to the state. Every such contract shall comply with the provisions of this act. Except as provided in the water assurance program act, the director shall not contract for withdrawals of water from a particular reservoir which in the director's opinion are in excess of the yield capability from the conservation storage water supply capacity in such reservoir committed to the state computed to provide water through a drought having a 2% chance of occurrence in any one year with the reservoir in operation. All contracts under this section shall have terms of not less than 10 years unless desired by the applicant. Whenever a contract expires the director shall give the persons with whom the director contracted therein, the opportunity to first refuse any new offering of the water before offering the same to applicants under the provisions of K.S.A. 82a-1310a, and amendments thereto.

(b) Whenever the authority finds that it is in the public's interest and will advance the purposes set forth in this act and in article 9 of chapter 82a of Kansas Statutes Annotated, and amendments thereto, the authority shall authorize the director to dispose of waters found by the authority to be surplus waters. Any arrangement for the disposition of any such surplus waters shall not be subject to the provisions of K.S.A. 82a-1306, 82a-1307 and 82a-1308a, and amendments thereto, relating to long-term contracts. No such arrangement shall be made for a period of time in excess of one year nor shall any such arrangement dispose of water from the conservation water supply capacity in excess of 10% of the yield capability as computed pursuant to subsection (a) unless the governor has declared that an emergency exists which affects the public health, safety or welfare. No charges shall be levied on the disposition of surplus waters when the purpose for such disposition is streamflow maintenance or reservoir pool management. A charge at a rate not to exceed the rate established pursuant to K.S.A. 82a-1306, and amendments thereto, shall be levied on the disposition of surplus waters when the purpose of such disposition is the maintenance of public health. A charge at a rate that may exceed the rate established pursuant to K.S.A. 82a-1306, and amendments thereto, shall be levied on the disposition of surplus waters when the purpose for such disposition is other than streamflow maintenance, reservoir pool management or maintenance of public health. (History: L. 1974, ch. 452, § 5; L. 1976, ch. 441, § 2; L. 1977, ch. 358, § 1; L. 1983, ch. 343, § 4; L. 1984, ch. 382, § 2; L. 1986, ch. 396, § 4; July 1.)

K.S.A. 82a-1306. State water plan storage act; contracts for withdrawal and use; required provisions; rate of charges for water. (a) Every contract made under authority of K.S.A. 82a-1305, and amendments thereto, shall include the following:

(1) Provision for charges, which shall be set by the director, subject to approval by the authority, at a rate which the director shall fix per 1,000 gallons of water at the point of withdrawal from the reservoir as provided in K.S.A. 82a-1308a, and amendments thereto;

(2) except as provided in subsection (b), provisions for a minimum annual charge to be paid in either an annual lump sum or in 12 equal monthly installments, whether or not water is withdrawn during the calendar year. The minimum annual charge shall be the sum of 50% of the total amount of water contracted for that year multiplied by the rate fixed under paragraph (1), plus, the remaining 50% of the water reserved under contract for that year, an amount as interest computed at a rate per annum equal to the average of the monthly net earnings rates for the pooled money investment portfolio for the preceding calendar year on the net amount of moneys advanced from state funds for costs incurred and associated with that portion of the state's conservation water supply capacity. The amount of water contracted for during the term may be based upon either equal annual amounts or an agreed-upon graduated scale which would be the best estimate at the time of contracting for the purchaser's water needs during the term of the contract;

(3) provisions that the director shall review and may adjust the rate provided in paragraph (1) on July 15 of each year effective January 1 of the following year to reflect any change in experience by substituting the adjusted rate for the rate then stated in the contract;

(4) provisions that the director may adjust the total amount of water contracted for as provided under paragraph (2) on the sixth anniversary of the execution of the contract and each annual anniversary thereafter, if the contractor does not begin full payment for the water under contract and another water user is ready, willing and able to contract for such water;

(5) provisions that water may be withdrawn in any calendar year up to the quantity used to compute the minimum annual charge under paragraph (2) without additional charge;

(6) provisions that water may be withdrawn in any calendar year in excess of the quantity used to compute the minimum annual charge under paragraph (2) but not to exceed the full amount specified in the contract for each year, upon payment of a charge therefor which shall be computed at the rate fixed under paragraph (1) for all water actually withdrawn. In addition, an amount shall be paid, on the unused balance of the water reserved under contract that calendar year, as interest computed as a rate per annum equal to the average of interest earned the past calendar year on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board on the net amount of moneys advanced from state funds for costs incurred and associated with that portion of the state's conservation water supply capacity;

(7) provisions that if the total amount of waters contracted for withdrawal from any reservoir in any year is greater than the supply available from that reservoir, the director, subject to approval by the authority, will apportion the available waters among the persons having contracts therefor as may best provide for the health, safety and general welfare of the people of this state as determined by the authority, and neither the state nor the authority shall be responsible or have any legal liability for any insufficiency of water or apportionment thereof;

(8) additional provisions that the director finds reasonable and necessary to protect the public's interest and to achieve the purpose set forth in article 9 of chapter 82a of Kansas Statutes Annotated, and amendments thereto; and

(9) additional provisions, within the purview of this act, that the director finds reasonable and necessary to protect the health, safety and general welfare of the people of this state.

(b) Every contract entered into under the authority of K.S.A. 82a-1305, and amendments thereto, may provide, if the parties agree, that the beginning of the payment period be deferred until water is available and whenever, in order to use such water, bonds are required to be issued or the construction of transmission or treatment facilities is required as follows: If water is not available at the time of contracting, for a maximum of three years from the date the water first becomes available, or until actual use of the water commences, whichever occurs first. If water is available at the time of contracting, the beginning of the payment period may be deferred to a date three years from the date of the contract, or until actual use of the water commences, whichever occurs first. **(History:** L. 1974, ch. 452, § 6; L. 1976, ch. 441, § 3; L. 1983, ch. 343, § 5; L. 1984, ch. 382, § 3; L. 1986, ch. 396, § 5; L. 1998, ch. 123, § 5; July 1.)

K.S.A. 82a-1307. Same; contracts for withdrawal and use; effective date; filing of contract with secretary of state and legislature; disapproval and revocation by legislature.

On or before the 30th calendar day of each regular legislative session, the director shall transmit to the house of representatives and the senate of this state, and to the secretary of state, copies of each contract made and executed under K.S.A. 82a-1305, and amendments thereto, since the 30th day of the regular legislative session occurring most recently prior to such transmission. Such contract copies transmitted to the secretary of state shall be and remain filed in the office of the secretary of state from the date transmitted until the end of the fifth year following the end of the term thereof, and during such time shall be available for public inspection during regular business hours. At any time after the 30th calendar day of the regular legislative session when a

contract is transmitted as provided in this section, the legislature may disapprove and revoke such contract by adoption of a concurrent resolution so providing. No contract under K.S.A. 82a-1305, and amendments thereto, shall be subject to revocation by the legislature after the 90th calendar day of such regular legislative session. Any annual installment or other amount due prior to legislative revocation shall be a valid obligation and shall be paid, but no annual installment or other amount due after legislative revocation shall be valid. **(History:** L. 1974, ch. 452, § 7; L. 1976, ch. 441, § 4; L. 1982, ch. 438, § 1; L. 1983, ch. 343, § 6; L. 1986, ch. 396, § 6; July 1.)

K.S.A. 82a-1308. **(History:** L. 1974, ch. 452, § 8; L. 1976, ch. 441, § 5; Repealed, L. 1983, ch. 343, § 19; March 17.)

K.S.A. 82a-1308a. Same; establishment of rates, components; considerations. (a) On July 15 of each year, effective January 1 of the following year, the director, subject to the approval of the authority, shall fix the rate provided for in subsection (a) of K.S.A. 82a-1306, and amendments thereto. The rate fixed shall be equal to the sum of the following components computed as provided in this section:

(1) An amount necessary to repay the amortized capital costs associated with the state's conservation water supply capacity;

(2) an amount as interest computed at a rate per annum equal to the average of the monthly net earnings rate of the pooled money investment board for the preceding calendar year on the net amount of moneys advanced from the state general fund for payment of the amortized capital costs incurred and associated with the state's conservation water supply capacity divided by the greater of: (A) Fifty percent of the total amount of water under each contract from the state's conservation storage water supply capacity in the preceding year; or (B) the total amount of water withdrawn under each contract from the state's conservation storage water supply capacity in the preceding year;

(3) the amount necessary to reimburse the state for the administration and enforcement of this act based on the actual costs of administration and enforcement in the preceding year divided by the greater of: (A) Fifty percent of the total amount of water under each contract from the state's conservation storage water supply capacity in the preceding year; or (B) the total amount of water withdrawn under each contract from the state's conservation storage water supply capacity in the preceding year; and

(4) the amount necessary to pay the operation, maintenance and repair costs associated with the state's conservation water supply capacity based on the estimated costs for the upcoming year divided by the greater of: (A) Fifty percent of the total amount of water under each contract from the state's conservation storage water supply capacity in the preceding year; or (B) the total amount of water withdrawn under each contract from the state's conservation storage water supply capacity in the preceding year; and

(5) an amount as a depreciation reserve cost to be dedicated for the purposes provided for in K.S.A. 82a-1315b, and amendments thereto, as follows: (A) For calendar years prior to 2007, an amount equal to \$0.25; and (B) for calendar year 2007 and subsequent years, an amount which is equal to the amount which is equal to the amount necessary to meet the needs of the water marketing program capital development and storage maintenance plan, as approved by the Kansas water authority.

(b) In computing such rates, the director shall consider the state's conservation water supply capacity from all sources as though impounded in one single reservoir. No water supply capacity of a reservoir shall be considered to be in such capacity until the year in which the state incurs contract obligations for the project. The rate so fixed for each year shall be the same for each contract under K.S.A. 82a-1305, and amendments thereto, for withdrawal from every reservoir. The rate fixed for each twelve-month period from January 1 to December 31 shall be the same for every contract under K.S.A. 82a-1305, and amendments thereto. **(History:** L. 1983, ch. 343, § 7; L. 1984, ch. 382, § 4; L. 1986, ch. 396, § 7; L. 1998, ch. 123, § 6; L. 2005, ch 180, § 1; July 1.)

K.S.A. 82a-1309. Same; meters, gauges or other measuring devices; director, authority. The director may require any person withdrawing water pursuant to a contract under K.S.A. 82a-1305, and amendments thereto, to install meters, gauges or other measuring devices in accordance with specifications of the director. The director or the director's agents may read any such device at any time, and may require any such person to report the readings of any such device at reasonable intervals. The director may test any such device at any time or require any such person to test the device as such director specifies and make a report thereof to the director. All such devices shall be maintained in good order. The director may require any such person to make specified repairs or maintenance to the device or replace the same as may be reasonable. **(History:** L. 1974, ch. 452, § 9; L. 1983, ch. 343, § 8; March 17.)

K.S.A. 82a-1310. (History: L. 1974, ch. 452, § 10; Repealed, L. 1983, ch. 343, § 19; March 17.)

K.S.A. 82a-1310a. Same; application to enter into contract, contents. Any person desiring to enter into a contract under K.S.A. 82a-1305, and amendments thereto, shall file an application therefor with the director. Such application shall be in such form and contain such information as the director requires. **(History:** L. 1983, ch. 343, § 9; L. 1986, ch. 396, § 8; July 1.)

K.S.A. 82a-1311. (History: L. 1974, ch. 452, § 11; Repealed, L. 1983, ch. 343, § 19; March 17.)

K.S.A. 82a-1311a. Same; contract negotiations; authority approval, considerations.
(a) The date of receipt of each application submitted pursuant to K.S.A. 82a-1310a, and amendments thereto, shall be stamped thereon and authenticated as directed by the director. Applicants shall notify the director in writing that they wish to commence negotiations for a contract to withdraw and use water. Within 10 days after the completion of negotiations for a contract to withdraw and use water, the director shall transmit to the chairperson of the authority a copy of the proposed contract.

(b) Upon request of the chairperson of the authority, the director shall transmit all available information necessary to determine whether or not to approve a contract to purchase water from the state's conservation water supply capacity or to use surplus waters for minimum streamflow requirements, unless an emergency exists.

(c) In order to determine whether a proposed contract for the sale of water from the state's conservation water supply capacity is in the interest of the people of the state of Kansas and whether the benefits to the state for approving the contract outweigh the benefits to the state for not approving the contract, the authority shall consider all matters pertaining to such questions, including:

- (1) The present and future water supply needs of the applicant;
- (2) any current beneficial uses being made of the noncontracted water proposed to be diverted;
- (3) any reasonably foreseeable future beneficial uses of the water;
- (4) the economic, environmental, public health and welfare and other benefits or adverse impact of approving the contract;
- (5) alternative sources of water available to the applicant;
- (6) the preliminary plan of design, construction and operation of any works or facilities used in conjunction with carrying the water to its point of use;
- (7) whether the proposed purchase is consistent with the state water plan approved by the legislature;
- (8) the date of receipt of the application to contract for withdrawal and use of water;
- (9) minimum streamflow requirements; and
- (10) whether the applicant has adopted and implemented a water conservation plan.

(d) The authority may require an applicant for a contract for the sale of water from the state's conservation water supply capacity to adopt and implement conservation plans and practices. Such plans and practices shall be consistent with the guidelines for conservation plans and practices developed and maintained by the Kansas water office pursuant to subsection (c) of K.S.A. 74-2608, and amendments thereto. Prior to approval of an application, the director of the Kansas water office, in consultation with the chief engineer, shall determine whether such plans and practices are consistent with the guidelines adopted by the Kansas water office.

(e) The authority may approve or reject the proposed contract and may recommend purchase of water from an alternative source. The authority may approve a contract for a smaller amount of water than requested and may approve a contract upon such terms, conditions and limitations as it deems necessary for the protection of the public interest of the state as a whole. **(History:** L. 1983, ch. 343, § 10; L. 1986, ch. 392, § 5; L. 1986, ch. 396, § 9; July 1.)

K.S.A. 82a-1312. Same; contracts filed with chief engineer. A copy of every contract entered into under K.S.A. 82a-1305, and amendments thereto, shall be filed with the chief engineer by the person who is to receive water under the contract. **(History:** L. 1974, ch. 452, § 12; L. 1983, ch. 343, § 11; March 17.)

K.S.A. 82a-1313. Same; withdrawal of water under contract; exercise and protection of rights. Persons having contracts under K.S.A. 82a-1305 for withdrawal of water may use waters withdrawn thereunder as provided in such contract without obtaining a permit or water right under article 7 of chapter 82a of Kansas Statutes Annotated. Such persons shall be entitled to the same protection of their rights under such contracts as the owner of any other vested property interest (including vested rights, appropriation rights and approved applications for permits to appropriate water) is entitled to receive. No person shall be entitled to any waters

withdrawn under this act from the conservation storage water supply of any reservoir except in accordance with a contract under K.S.A. 82a-1305. (**History:** L. 1974, ch. 452, § 13; March 22.)

K.S.A. 82a-1314. Same; request for withdrawal of water; release of water; conduct and withdrawal of water. Whenever a person, who has a contract under K.S.A. 82a-1305, and amendments thereto, wishes to make a withdrawal of water, such person shall so advise the director as provided in the contract. Whenever the bed of a watercourse is to be used to carry waters so released, the director shall inform the chief engineer who shall, upon four working days' notice, protect any such release. The director shall request the authorities in charge of the operation of the reservoir to make an appropriate release of water. The person for whom waters are released may conduct such waters into and along any watercourse and may withdraw or redivert the same at points specified in such person's contract, without regard to holders of water rights to the waters of the watercourse, due allowance being made for seepage and evaporation. The provisions of K.S.A. 82a-706b to 82a-706e, inclusive, and amendments thereto, shall apply to water so released. In addition to such authority and duties, the chief engineer shall protect and shall have authority to enter into agreements necessary to protect any release of water. (**History:** L. 1974, ch. 452, § 14; L. 1983, ch. 343, § 12; L. 1984, ch. 382, § 5; L. 1986, ch. 396, § 11; July 1.)

K.S.A. 82a-1315. (History: L. 1974, ch. 452, § 15; Repealed, L. 1983, ch. 343, § 19; March 17.)

K.S.A. 82a-1315a. Same; payment of charges; disposition of revenue. Amounts charged pursuant to contracts entered into pursuant to K.S.A. 82a-1305, and amendments thereto, and all other amounts charged pursuant to this act shall be paid to the director. Upon receipt, the director shall remit the entire amount to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer, except as provided in K.S.A. 82a-1315b, and amendments thereto, shall deposit the entire amount in the state treasury to the credit of the water marketing fund. (**History:** L. 1983, ch. 343, § 13; L. 1991, ch. 290, § 2; L. 2001, ch. 5, § 476; July 1.)

K.S.A. 82a-1315b. Same; acquisition of conservation storage water supply capacity; establishment of state conservation storage water supply fund; deposits and expenditures.

(a) The director, subject to approval of the authority, shall acquire or develop conservation storage water supply capacity in impoundments deemed necessary to implement the state water plan.

(b) That portion of all moneys received by the state treasurer pursuant to K.S.A. 82a-1315a, and amendments thereto, which is not attributable to: (1) the annual repayment on water storage costs in federal reservoirs as computed under subsection (a)(1) of K.S.A. 82a-1308a, and amendments thereto; (2) the operation, maintenance and repair costs associated with the state's conservation water supply capacity; and (3) the costs in administering and enforcing the provisions of this act, shall be deposited in the state treasury to the credit of the state conservation storage water supply fund which is hereby established. The director shall provide the treasurer with an accounting of the total remittances and shall deposit money only to the

credit of the state conservation storage water supply fund after the full amount of the costs attributable to the water marketing fund from the preceding calendar year have been repaid. For purposes of calculating the rate in K.S.A. 82a-1308a, and amendments thereto, effective beginning calendar year 1986, all moneys received pursuant to this act since 1975 shall be credited for repayment of the components in the following order: paragraphs (1), (4), (3), (2), (5) of subsection (a) of K.S.A. 82a-1308a, and amendments thereto.

(c) The state conservation storage water supply fund shall serve in part as a savings fund to further the purpose of this act and the fund shall be credited amounts for interest earned thereon in accordance with subsection (e). The director may accept or receive moneys from any source, governmental or private, for the purposes for which expenditures may be made from this fund. The director shall remit all such moneys to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state conservation storage water supply fund.

(d) All expenditures from the state conservation storage water supply 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 by a person or persons designated by the director and shall be used solely for the purpose of acquisition, development or maintenance of conservation storage water supply in impoundments deemed necessary to implement the state water plan, including expenditures related to the issuance of revenue bonds for such purposes and nonwater supply benefits associated with such purposes.

(e) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the conservation storage water supply fund interest earnings based on:

(1) The average daily balance of moneys in the conservation storage water supply fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month. (**History:** L. 1983, ch. 343, § 14; L. 1986, ch. 396, § 12; L. 1991, ch. 290, § 3; L. 1998, ch. 123, § 7; L. 2001, ch. 5, § 477; L. 2005, ch. 180, § 2; July 1.)

K.S.A. 82a-1315c. Water marketing fund created; purposes for which moneys may be expended from fund. (a) There is hereby created in the state treasury the water marketing fund. The director of the Kansas water office may accept or receive moneys from any source, governmental or private, for the purposes for which expenditures may be made from the water marketing fund. The director shall remit all moneys so received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the water marketing fund.

(b) Moneys credited to the water marketing fund shall be used for the following purposes:

(1) Payment to the federal government of annual capital costs associated with water supply storage space in reservoirs under the state water plan storage act;

- (2) repayment to the state general fund for moneys advanced to make annual capital cost payments for water supply storage space in reservoirs under the state water plan storage act;
- (3) payment to the federal government of annual operation, maintenance and repair costs associated with the water supply storage space under the state water plan storage act;
- (4) payment of administration and enforcement costs of the state associated with the state water plan storage act;
- (5) an annual set-aside to a reserve account which is hereby created as part of this fund of an amount specified by the director of the Kansas water office but not more than 1¢ per 1,000 gallons of water sold, such reserve to be used to meet any shortfall in revenue or unusual expenses relating to operation, maintenance and repair costs; and
- (6) deposit of receipts as required under K.S.A. 82a-1315b, and amendments thereto.

(c) All expenditures from the water marketing 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 by a person designated by the director. (**History:** L. 1991, ch. 290, § 1; L. 2001, ch. 5, § 478; L. 2005, ch. 180, § 3; July 1.)

K.S.A. 82a-1316. Same; approval of assignment, sale or transfer of contract or interest required; amendment or revocation of contract. No assignment, sale, conveyance or transfer of all or any part of a contract under K.S.A. 82a-1305, and amendments thereto, or of interest thereunder, or of interest therein shall be valid unless and until the same is approved by the authority under such reasonable terms and conditions as it may impose. Any contract under K.S.A. 82a-1305, and amendments thereto, may be amended or nullified by written agreement of the parties thereto made and recorded as provided in this act for original contracts under K.S.A. 82a-1305, and amendments thereto, but no such amendment shall change any rate specified in the original contract in accordance with either paragraphs (1) or (2) of subsection (a) of K.S.A. 82a-1306, and amendments thereto.

Every such contract amendment shall be transmitted as provided in K.S.A. 82a-1307, and amendments thereto for original contracts, and shall be subject to revocation as provided in K.S.A. 82a-1307, and amendments thereto. Whenever a contract amendment is so revoked, the contract to which the amendment applied shall remain valid and unchanged, as though such amendment had never been agreed upon. (**History:** L. 1974, ch. 452, § 16; L. 1983, ch. 343, § 15; March 17.)

K.S.A. 82a-1317. Same; failure to make payment for water; interest on overdue payment. If any person financially obligated under a contract made under K.S.A. 82a-1305, and amendments thereto, should fail to make any of the payments when due, then the overdue payments shall bear interest compounded annually at the rate equal to the average rate of interest per annum earned in the preceding calendar year on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board until paid. This provision shall not be construed as giving the person an option of either making payments when due or paying interest nor shall it be construed as waiving any of the rights of the authority or the state of Kansas that might result from any default by the person. (**History:** L. 1974, ch. 452, § 17; L. 1983, ch. 343, § 16; L. 1984, ch. 382, § 6; L. 1986, ch. 396, § 13; July 1.)

K.S.A. 82a-1318. Same; enforcement of claim or right or provisions of act or rules and regulations; authority of authority; attorney general, duties. The authority may sue in its own name, or may authorize suit to be brought by an authorized representative in the name of the authority, to enforce any claim or right arising out of any contract under K.S.A. 82a-1305, and amendments thereto, any provision of this act or any rule and regulation adopted under this act. The authority may be sued and may defend any action brought against it arising out of any contract under K.S.A. 82a-1305, and amendments thereto. Nothing in this section shall be deemed to authorize any suit against the authority or any member thereof, or any officer or employee of the state or of the authority, on an implied contract, or for negligence or any other tort. The attorney general, or any attorney designated by the attorney general, shall represent the authority in all litigation. **(History:** L. 1974, ch. 452, § 18; L. 1983, ch. 343, § 17; March 17.)

K.S.A. 82a-1319. Same; rules and regulations. The director may adopt, subject to approval of the authority, rules and regulations for the administration and carrying out the purposes of this act. **(History:** L. 1974, ch. 452, § 19; L. 1983, ch. 343, § 18; March 17.)

K.S.A. 82a-1320. Citation of act. This act shall be known and may be cited as the "state water plan storage act." **(History:** L. 1974, ch. 452, § 20; March 22.)