

## SENATE BILL No. 304

By Committee on Assessment and Taxation

2-6

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9 AN ACT concerning the district courts; relating to the payment for costs  
10 thereof; amending K.S.A. 22-3801, 23-4,117, 28-150 and 61-3202 and  
11 K.S.A. 2006 Supp. 19-101e, 20-348, 20-350, 23-497 and 43-171 and  
12 repealing the existing sections; also repealing K.S.A. 20-162, 20-358,  
13 20-359, 20-361 and 20-363 and K.S.A. 2006 Supp. 20-349, 20-368 and  
14 23-498.

15

16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. (a) On and after July 1, 2008, all expenses of the  
18 district courts, except the courtrooms and office space used by the court  
19 personnel, shall be paid by the state.

20 (b) The chief judge in each judicial district shall be responsible for  
21 the preparation of the budget to be submitted to the supreme court. The  
22 supreme court shall review and have final authority to determine and  
23 submit the budget for district court operations. The judicial administrator  
24 of the courts shall prescribe the form upon which such budgets shall be  
25 submitted. The budget shall include all expenditures payable for opera-  
26 tions of the district court in each district.

27 (c) The budgets of the district courts shall be included in the annual  
28 budget request which the chief justice submits to the legislature for the  
29 judicial branch of state government for inclusion in the annual budget  
30 document for appropriations for the judiciary.

31 (d) The compensation to be paid to district court personnel shall be  
32 listed in the budget submitted to the supreme court as a separate item  
33 for each job position. After the amount of such district court budget is  
34 established, the expenditures under such budget, other than expenditures  
35 for job positions contained in the budget, shall be under the control and  
36 supervision of the chief judge, subject to supreme court rules relating  
37 thereto.

38 (e) The supreme court shall establish by rule a judicial personnel  
39 classification system for all nonjudicial personnel in the state court system  
40 and for judicial personnel whose compensation is not otherwise pre-  
41 scribed by law. Such personnel classification system shall take effect on  
42 July 1, 2008, and shall prescribe the compensation for all such personnel.  
43 No county may supplement the compensation of district court personnel

1 included in the judicial personnel compensation system. Such compen-  
2 sation shall be established so as to be commensurate with the duties and  
3 responsibilities of each type and class of personnel. In establishing the  
4 compensation for each type and class of personnel, the supreme court  
5 shall take into consideration: (1) The compensation of such personnel  
6 prior to January 1, 2008; (2) the compensation of personnel in the exec-  
7 utive branch of state government who have comparable duties and re-  
8 sponsibilities; and (3) the compensation of similar personnel in the court  
9 systems of other states having comparable size, population and  
10 characteristics.

11 (f) The judicial personnel classification system also shall prescribe the  
12 powers, duties and functions for each type and class of personnel, which  
13 shall be subject to and not inconsistent with any provisions of law pre-  
14 scribing powers, duties and functions of such personnel.

15 (g) In conjunction with the judicial personnel classification system,  
16 the supreme court shall prescribe a procedure whereby personnel subject  
17 to such classification system who are removed from office by their ap-  
18 pointing authority will have an opportunity to seek reinstatement.

19 (h) On or before December 1, 2007, the supreme court shall submit  
20 to the legislative coordinating council a detailed personnel classification  
21 and pay plan for district court employees in the judicial personnel clas-  
22 sification system. The plan shall detail each individual position by classi-  
23 fication, pay grade and pay step as compared to the employee's present  
24 salary. In assignment of positions to particular steps within the assigned  
25 pay grade, the plan shall place each employee at the step which is the  
26 next highest over the employee's current salary. If an employee is earning  
27 more than the highest step on a given grade, such employee's salary shall  
28 remain at the current level.

29 (i) The financial affairs of the district court in each county concerning  
30 law library funds shall be subject to audit pursuant to the provisions of  
31 K.S.A. 75-1122, and amendments thereto, as part of the annual county  
32 audit. Reports of fiscal or managerial discrepancies or noncompliance  
33 with applicable law shall be made to the judicial administrator of the  
34 courts and the board of county commissioners.

35 (j) Nothing in this section shall require the state to expend funds for  
36 any no-fund warrants or general obligation bonds issued by any county  
37 pursuant to K.S.A. 20-356 or 20-626, and amendments thereto.

38 Sec. 2. On and after July 1, 2008, K.S.A. 2006 Supp. 19-101e is  
39 hereby amended to read as follows: 19-101e. (a) Except as provided in  
40 subsections (b) and (d) and in K.S.A. 19-4707 and amendments thereto,  
41 the items allowable as costs shall be the same as in cases for misdemeanor  
42 violations of state law and shall be taxed as provided in K.S.A. 22-3801,  
43 22-3802 and 22-3803, and amendments thereto.

1 (b) The fees and mileage for the attendance of witnesses shall be  
2 borne by the party calling the witness, except that if an accused person  
3 is found not guilty, the ~~county~~ *state* shall pay all such expenses, but the  
4 court may direct that fees and mileage of witnesses subpoenaed by the  
5 accused person be charged against such person, if the court finds that  
6 there has been an abuse of the use of subpoenas by the accused person.

7 (c) All fines and penalties collected in actions for the enforcement of  
8 county codes and resolutions pursuant to the code for the enforcement  
9 of county codes and resolutions as provided in subsection (b) of K.S.A.  
10 19-101d and amendments thereto shall be paid over to the county trea-  
11 surer of the county where they are imposed for deposit in the county  
12 general fund or in the special law enforcement fund, if established. All  
13 fines and penalties collected in actions brought pursuant to the provisions  
14 of subsection (a) of K.S.A. 19-101d and amendments thereto shall be  
15 remitted to the state treasurer, as provided in K.S.A. 20-2801 and amend-  
16 ments thereto.

17 (d) In each county which has created a county court for enforcement  
18 of county codes and resolutions as provided in subsection (b) of K.S.A.  
19 19-101d and amendments thereto, the court shall assess additional court  
20 costs of \$20 for each violation of a resolution. The judge or clerk of the  
21 county court shall remit at least monthly to the state treasurer \$2 of the  
22 additional court costs. The state treasurer shall deposit the entire amount  
23 of the remittance in the state treasury and credit 50% to the protection  
24 from abuse fund established pursuant to K.S.A. 74-7325 and amendments  
25 thereto and 50% to the crime victims assistance fund established pursuant  
26 to K.S.A. 74-7334 and amendments thereto. The remaining additional  
27 court costs shall be paid over to the county treasurer of the county where  
28 they are imposed for deposit in the county general fund.

29 Sec. 3. On and after July 1, 2008, K.S.A. 2006 Supp. 20-348 is hereby  
30 amended to read as follows: 20-348. ~~Except for expenses required by law~~  
31 ~~to be paid by the state,~~ The board of county commissioners of each county  
32 have an obligation to adequately fund the ~~operation of the district court~~  
33 ~~in the county and shall be responsible for all expenses incurred for the~~  
34 ~~operation of the district court in the county~~ *courthouse facility and space*  
35 *for the district court. Such obligation shall include maintenance and cap-*  
36 *ital improvements to the courthouse.*

37 Sec. 4. On and after July 1, 2008, K.S.A. 2006 Supp. 20-350 is hereby  
38 amended to read as follows: 20-350. (a) Except for fines and penalties  
39 authorized to be paid to counties pursuant to K.S.A. 19-101e, and amend-  
40 ments thereto, and subsection (b), and amendments thereto, all moneys  
41 received by the clerk of the district court from the payment of fines,  
42 penalties and forfeitures shall be remitted to the state treasurer in ac-  
43 cordance with the provisions of K.S.A. 75-4215, and amendments thereto.

1 Upon receipt of each such remittance, the state treasurer shall deposit  
2 the entire amount in the state treasury to the credit of the state general  
3 fund, except as provided in K.S.A. 74-7336, and amendments thereto, or  
4 K.S.A. 8-1345, and amendments thereto.

5 ~~(b) Except as provided by K.S.A. 2006 Supp. 20-368, and amend-~~  
6 ~~ments thereto,~~ All moneys received by the clerk of the district court from  
7 the payment of bail forfeitures shall be remitted to the state treasurer in  
8 accordance with the provisions of K.S.A. 75-4215, and amendments  
9 thereto. Upon receipt of each such remittance, the state treasurer shall  
10 deposit the entire amount in the state treasury and shall credit equal  
11 portions of such remittance to the indigents' defense services fund and  
12 the state general fund.

13 (c) The chief judge may invest any moneys on deposit in the district  
14 court account if the moneys are not immediately required for the pur-  
15 poses for which they were collected or received. Such moneys may be  
16 invested in: (1) Time deposits, open account or certificates of deposit, for  
17 periods not to exceed six months, or savings deposits, in commercial banks  
18 located in the county, except that amounts invested which are not insured  
19 by the United States government shall be secured in the manner and  
20 amounts provided by K.S.A. 9-1402, and amendments thereto; (2) United  
21 States treasury bills or notes with maturities not to exceed six months; or  
22 (3) savings and loan associations located in the county. No investment of  
23 more than the amount insured by the federal deposit insurance corpo-  
24 ration shall be made in any one savings and loan association. Interest  
25 received from the investment of moneys pursuant to this subsection shall  
26 be remitted to the state treasurer in accordance with the provisions of  
27 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
28 remittance, the state treasurer shall deposit the entire amount in the state  
29 treasury to the credit of the state general fund.

30 (d) Upon application of a party to an action in which such party claims  
31 ownership of moneys held by the district court, the chief judge may invest  
32 such moneys in the same manner as provided by subsection (c). Interest  
33 received from the investment of moneys pursuant to this subsection shall  
34 become the property of the person found to be the owner of the moneys.

35 Sec. 5. On and after July 1, 2008, K.S.A. 22-3801 is hereby amended  
36 to read as follows: 22-3801. (a) If the defendant in a criminal case is  
37 convicted, the court costs shall be taxed against the defendant and shall  
38 be a judgment against the defendant which may be enforced as judgments  
39 for payment of money in civil cases.

40 (b) Jury fees are not court costs and shall be paid by the ~~county~~ *state*  
41 in all criminal cases.

42 (c) ~~Whenever jury fees are paid by the county in a case in which the~~  
43 ~~defendant was a person who had been committed to an institution under~~

1 ~~the control of the secretary of corrections and had not been finally dis-~~  
2 ~~charged or released from the institution, the department of corrections~~  
3 ~~shall reimburse the county for jury fees paid by the county. The reim-~~  
4 ~~bursment shall be paid from funds made available by the legislature for~~  
5 ~~that purpose.~~

6 ~~—(d)~~ The county shall not be reimbursed for the cost of employing a  
7 special prosecutor.

8 Sec. 6. On and after July 1, 2008, K.S.A. 2006 Supp. 23-497 is hereby  
9 amended to read as follows: 23-497. (a) Except as provided further, to  
10 defray the expenses of operation of the court trustee's office, the court  
11 trustee is authorized to charge an amount: (1) Whether fixed or sliding  
12 scale, based upon the scope of services provided or upon economic cri-  
13 teria, not to exceed 5% of the support collected from obligors through  
14 such office, as determined necessary by the chief judge as provided by  
15 this section; (2) based upon the hourly cost of office operations for the  
16 provision of services on an hourly or per service basis, with the written  
17 agreement of the obligee; or (3) from restitution collected, not to exceed  
18 the fee authorized by the attorney general under any contract entered  
19 into pursuant to K.S.A. 75-719, and amendments thereto.

20 (b) All such amounts shall be paid ~~to~~ *by* the court trustee ~~operations~~  
21 ~~fund of the county where collected. There shall be created a court trustee~~  
22 ~~operations fund in the county treasury of each county or district court of~~  
23 ~~each county, in each judicial district that establishes the office of court~~  
24 ~~trustee for the judicial district. The moneys budgeted to fund the oper-~~  
25 ~~ation of existing court trustee offices and to fund the start-up costs of new~~  
26 ~~court trustee offices established on or after January 1, 1992, whether as~~  
27 ~~a result of a rule adopted pursuant to K.S.A. 23-494, and amendments~~  
28 ~~thereto, or because this act has created a court trustee operations fund,~~  
29 ~~shall be transferred from the county general fund to the court trustee~~  
30 ~~operations fund. The county commissioners of the county or group of~~  
31 ~~counties, if the judicial district consists of more than one county, by a~~  
32 ~~majority vote, shall decide whether the county or counties will have a~~  
33 ~~court trustee operations fund in the county treasury or the district court~~  
34 ~~of each county. All expenditures from the court trustee operations fund~~  
35 ~~shall be made in accordance with the provisions of K.S.A. 23-492 et seq.~~  
36 ~~and amendments thereto to enforce duties of support. Authorized ex-~~  
37 ~~penditures from the court trustee operations fund may include repayment~~  
38 ~~of start-up costs, expansions and operations of the court trustee's office~~  
39 ~~to the county general fund. The court trustee shall be paid compensation~~  
40 ~~as determined by the chief judge. The board of county commissioners of~~  
41 ~~each county to which this act may apply shall provide suitable quarters~~  
42 ~~for the office of court trustee, furnish stationery and supplies, and such~~  
43 ~~furniture and equipment as shall, in the discretion of the chief judge, be~~

1 ~~necessary for the use of the court trustee. The chief judge shall fix and~~  
2 ~~determine the annual budget of the office of the court trustee and shall~~  
3 ~~review and determine on an annual basis the amount necessary to be~~  
4 ~~charged to defray the expense of start-up costs, expansions and operations~~  
5 ~~of the office of court trustee. All payments made by the secretary of social~~  
6 ~~and rehabilitation services pursuant to K.S.A. 23-4,117 and amendments~~  
7 ~~thereto or any grants or other monies received which are intended to~~  
8 ~~further child support enforcement goals or restitution goals shall be de-~~  
9 ~~posited in the court trustee operations fund to the state treasurer in ac-~~  
10 ~~cordance with the provisions of K.S.A. 75-4215, and amendments thereto.~~  
11 ~~Upon receipt of each such remittance, the state treasurer shall deposit the~~  
12 ~~entire amount in the state treasury to the credit of the state general fund.~~

13 (c) The court trustee shall not charge or collect a fee for any support  
14 payment that is not paid through the central unit for collection and dis-  
15 bursements of support payments pursuant to K.S.A. 23-4,118, and  
16 amendments thereto.

17 (d) *All expenses of the operation of the court trustee's office shall be*  
18 *paid by the state.*

19 Sec. 7. On and after July 1, 2008, K.S.A. 23-4,117 is hereby amended  
20 to read as follows: 23-4,117. (a) The judicial administrator and the sec-  
21 retary of social and rehabilitation services shall cooperate to design sug-  
22 gested legal forms and informational materials which describe procedures  
23 and remedies under this act for distribution to all parties in support  
24 actions.

25 (b) The judicial administrator of the courts and the secretary of social  
26 and rehabilitation services shall enter into a contract to develop and main-  
27 tain an automated management information system which will monitor  
28 support payments, maintain accurate records of support payments and  
29 permit prompt notice of arrearages in support payments. District courts,  
30 including court trustees, shall be subcontractors in the management in-  
31 formation system and payments for their services shall be disbursed as  
32 directed by the judicial administrator. Unless good cause is shown, the  
33 secretary of social and rehabilitation services shall contract with court  
34 trustees for enforcement services. ~~Subcontractor employees determined~~  
35 ~~necessary to the performance of the contract by the judicial administrator~~  
36 ~~shall be state employees paid by county general funds. The provisions of~~  
37 ~~K.S.A. 20-358 and 20-359, and amendments thereto, shall apply. County~~  
38 ~~expenditures for compensation of subcontractor employees may be paid~~  
39 ~~during any budget year even though the expenditures were not included~~  
40 ~~in the budget for that year. County general funds shall be promptly re-~~  
41 ~~imbursed for subcontractor employee compensation cost from the sub-~~  
42 ~~contractor's payment plus a reasonable administrative fee for the county~~  
43 ~~for acting as fiscal and reporting agent as determined necessary by the~~

1 ~~judicial administrator.~~ The provisions of the Kansas court personnel rules;  
2 ~~except for pay and classification plans,~~ shall apply to subcontractor  
3 employees.

4 Sec. 8. On and after July 1, 2008, K.S.A. 28-150 is hereby amended  
5 to read as follows: 28-150. In all cases where the fees prescribed by this  
6 act in criminal cases for the sheriff, clerk and witnesses for the state, are  
7 not paid by the defendant or the prosecuting witness, ~~they such fees~~ shall  
8 be paid by the ~~county in which the criminal prosecution is instituted.~~  
9 ~~Provided, That no such fees shall be paid by the board of county com-~~  
10 ~~missioners until the sheriff shall have filed his affidavit that said state.~~  
11 *Such fees shall be paid upon an affidavit from the sheriff stating such fees*  
12 *cannot be collected from any other source. Jury fees in civil and criminal*  
13 *cases shall be paid by the county state.*

14 Sec. 9. On and after July 1, 2008, K.S.A. 2006 Supp.43-171 is hereby  
15 amended to read as follows: 43-171. Jurors shall be paid the following  
16 fees ~~from the county general fund~~ *by the state:*

17 (a) An amount, not less than \$10 nor more than \$50, as determined  
18 by the ~~county commission~~ *supreme court*, for each day of attendance, to  
19 attend court pursuant to this act; and

20 (b) mileage, at the rate authorized by law, for necessary travel in going  
21 to and returning from court pursuant to this act.

22 Sec. 10. On and after July 1, 2008, K.S.A. 61-3202 is hereby  
23 amended to read as follows: 61-3202. (a) If a case is not settled or oth-  
24 erwise disposed of at the pretrial hearing, the case shall be set for trial  
25 by the court.

26 (b) All lawsuits filed under this act shall be tried by the court, unless  
27 a trial by jury is demanded by one of the parties. Demand for jury trial  
28 shall be made on or before the date of the pretrial conference.

29 (c) A lawsuit tried by jury pursuant to the code of civil procedure for  
30 limited actions shall be tried to a jury composed of six persons having the  
31 same qualifications of jurors as other jurors in district court, unless the  
32 parties agree on a lesser number. The court shall summon not less than  
33 12 prospective jurors from the source and in the manner provided for  
34 the summoning of petit jurors in the district court. When there is more  
35 than one plaintiff or more than one defendant in such action, the court  
36 shall summon three additional prospective jurors for each such additional  
37 plaintiff or defendant. Each juror shall be paid as specified in K.S.A. 43-  
38 171, and amendments thereto, for each day of attendance and shall re-  
39 ceive mileage at the rate prescribed in K.S.A. 75-3203, and amendments  
40 thereto. Such jury fees shall be paid by the ~~county~~ *state*. The provisions  
41 of K.S.A. 60-247, subsections (b) through (h) of K.S.A. 60-248, K.S.A. 60-  
42 250 and 60-251, and amendments thereto, shall be applicable to actions  
43 pursuant to the code of civil procedure for limited actions insofar as they

1 are not inconsistent with the provisions of this act.

2 (d) In all trials pursuant to the code of civil procedure for limited  
3 actions, the testimony of witnesses shall be taken orally in open court,  
4 unless otherwise provided by this act. All matters relating to witnesses  
5 and the admission of evidence shall be governed by article 4 of chapter  
6 60 of the Kansas Statutes Annotated, and amendments thereto.

7 Sec. 11. On and after July 1, 2008, K.S.A. 20-162, 20-358, 20-359,  
8 20-361, 20-363, 22-3801, 23-4,117, 28-150 and 61-3202 and K.S.A. 2006  
9 Supp. 19-101e, 20-348, 20-349, 20-350, 20-368, 23-497, 23-498 and 43-  
10 171 are hereby repealed.

11 Sec. 12. This act shall take effect and be in force from and after its  
12 publication in the statute book.