

**HOUSE BILL No. 2122**

By Committee on Energy and Utilities

1-28

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1 AN ACT concerning the agricultural ethyl alcohol producer incentive  
2 fund; relating to extension; amending K.S.A. 2010 Supp. 79-34,161,  
3 **79-34,163** and 79-34,164 and repealing the existing sections.  
4

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

6 Section 1. K.S.A. 2010 Supp. 79-34,161 is hereby amended to read as  
7 follows: 79-34,161. On July 1, 2001, and quarterly thereafter, the state  
8 treasurer shall credit amounts as provided in this subsection from the  
9 amounts remaining after the state treasurer credits an amount to the motor  
10 vehicle fuel tax refund fund as provided in K.S.A. 79-3425, and  
11 amendments thereto, to the Kansas qualified agricultural ethyl alcohol  
12 producer incentive fund. The current production account and the new  
13 production account are hereby created in the Kansas qualified agricultural  
14 ethyl alcohol producer incentive fund. During fiscal years 2002, 2003 and  
15 2004, the state treasurer (a) shall credit \$500,000 each calendar quarter to  
16 the current production account of the Kansas qualified agricultural ethyl  
17 alcohol producer incentive fund, and (b) shall credit \$375,000 each  
18 calendar quarter to the new production account of the Kansas qualified  
19 agricultural ethyl alcohol producer incentive fund. During fiscal years  
20 2005 through ~~2011~~ 2018, the state treasurer shall credit \$875,000 each  
21 calendar quarter to the new production account of the Kansas qualified  
22 agricultural ethyl alcohol producer incentive fund. On July 1 of each fiscal  
23 year through fiscal year ~~2011~~ 2018, or as soon after each such date as  
24 information is available, the secretary of revenue shall certify to the  
25 director of accounts and reports the amount of any unencumbered balance  
26 as of June 30 of the preceding fiscal year in the current production account  
27 of such fund and the director of accounts and reports shall transfer the  
28 amount certified from the current producer account to the new production  
29 account of the Kansas qualified agricultural ethyl alcohol producer  
30 incentive fund. **After all amounts have been paid pursuant to**  
31 **certifications for the fiscal year ending on June 30**, any unencumbered  
32 balance as of June 30 of any fiscal year in the new production account of  
33 such fund shall ~~remain credited in the new production account for the~~  
34 ~~payment of claims of new production incentives in ensuing fiscal years. be~~

1 transferred by the director of accounts and reports to the motor  
2 vehicle fuel tax refund fund. If the aggregate of outstanding claims made  
3 on the current production account of such fund is greater than the amount  
4 credited to such account, then such claims shall be paid on a pro rata basis.  
5 Each claim may be paid regardless of the fiscal year during which the  
6 claim was submitted.

7 Sec. 2. K.S.A. 2010 Supp. 79-34,163 is hereby amended to read as  
8 follows: 79-34,163. (a) A Kansas qualified agricultural ethyl alcohol  
9 producer shall be paid a production incentive for distilling  
10 agricultural ethyl alcohol. The incentive shall be payable to the  
11 Kansas qualified agricultural ethyl alcohol producer from the Kansas  
12 qualified agricultural ethyl alcohol producer incentive fund. The  
13 amount of the production incentive shall be as follows:

14 (1) During fiscal years 2002, 2003 and 2004, the amount shall be  
15 \$.05 for each gallon of agricultural ethyl alcohol sold by the producer  
16 who is in production prior to July 1, 2001, to an alcohol blender. Any  
17 such amounts pursuant to this subsection shall be paid from the  
18 current production account of the Kansas qualified agricultural ethyl  
19 alcohol producer incentive fund;

20 (2) If the producer who is in production prior to July 1, 2001,  
21 increases the producer's agricultural ethyl alcohol production capacity  
22 on or after July 1, 2001, by an amount of 5,000,000 gallons over the  
23 producer's base sales, such producer shall receive an amount equal to  
24 ~~\$.075~~ \$.035 for each gallon of agricultural ethyl alcohol sold by the  
25 producer to an alcohol blender that is in excess of the producer's base  
26 sales. No producer shall receive the production incentive pursuant to  
27 this subsection for more than 15,000,000 gallons sold. Any such  
28 amount shall be paid from the new production account of the fund;  
29 ~~and~~

30 (3) any producer who commences production on or after July 1,  
31 2001, *prior to July 1, 2012*, the amount shall be ~~\$.075~~ \$.035 for each  
32 gallon of agricultural ethyl alcohol sold by such producer to an alcohol  
33 blender, if such producer has sold at least 5,000,000 gallons. No  
34 producer shall receive the production incentive pursuant to this  
35 subsection for more than 15,000,000 gallons sold. Any such amounts  
36 shall be paid from the new production account of the fund; *and*

37 (4) *any producer who commences cellulosic alcohol production on*  
38 *or after July 1, 2012, the amount shall be \$.035 for each gallon of*  
39 *agricultural ethyl alcohol sold by such producer to an alcohol blender, if*  
40 *such producer has sold at least 5,000,000 gallons. No producer shall*  
41 *receive the production incentive pursuant to this subsection for more*  
42 *than 15,000,000 gallons sold. Any such amounts shall be paid from the*  
43 *new production account of the fund. This provision shall not apply to*

1 *producers who commence alcohol production from grain.*

2 (b) For the purposes of subsection (a), a producer's base sales  
3 shall be the number of gallons of agricultural ethyl alcohol sold by the  
4 producer to an alcohol blender in calendar year 2000. All new  
5 production incentives pursuant to this section for a producer who is in  
6 production prior to July 1, 2001, shall be based on such producer's  
7 base sales.

8 (c) The amounts payable to a producer as provided in subsections  
9 (a)(2) and (a)(3) shall be payable for no more than seven years to any  
10 one producer.

11 (d) The Kansas qualified agricultural ethyl alcohol producer shall  
12 file for the production incentive beginning July 1, 2001, and quarterly  
13 thereafter, on a form furnished by the department of revenue. The  
14 form shall require the producer to file such information as the  
15 secretary of revenue may require by rules and regulations, but shall  
16 include information relating to the original production records and  
17 invoices issued to the alcohol blender at the time of delivery, showing  
18 the total number of gallons of agricultural ethyl alcohol sold to the  
19 alcohol blender for the previous three months.

20 (e) The secretary of revenue may adopt such rules and  
21 regulations necessary to administer the provisions of this act,  
22 including the development of a procedure for the payment of the  
23 production incentive.

24 ~~Sec.-2: 3.~~ K.S.A. 2010 Supp. 79-34,164 is hereby amended to read as  
25 follows: 79-34,164. The provisions of K.S.A. 79-34,160 through 79-  
26 34,163, and amendments thereto, shall expire on July 1, ~~2011~~ 2018.

27 ~~Sec.-3: 4.~~ K.S.A. 2010 Supp. 79-34,161, ~~79-34,163~~ and 79-34,164 are  
28 hereby repealed.

29 ~~Sec.-4: 5.~~ This act shall take effect and be in force from and after its  
30 publication in the statute book.

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