

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

As Amended by House Committee

Session of 2011

HOUSE BILL No. 2122

By Committee on Energy and Utilities

1-28

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

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

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

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

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

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

39 (4) *any producer who commences cellulosic alcohol production on*
40 *or after July 1, 2012, the amount shall be \$.035 for each gallon of*
41 *agricultural ethyl alcohol sold by such producer to an alcohol blender, if*
42 *such producer has sold at least 5,000,000 gallons. No producer shall*
43 *receive the production incentive pursuant to this subsection for more*

1 *than 15,000,000 gallons sold. Any such amounts shall be paid from the*
2 *new production account of the fund. This provision shall not apply to*
3 *producers who commence alcohol production from grain.*

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

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

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

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

26 ~~Sec.-2:~~ **3.** K.S.A. 2010 Supp. 79-34,164 is hereby amended to read as
27 follows: 79-34,164. The provisions of K.S.A. 79-34,160 through 79-
28 34,163, and amendments thereto, shall expire on July 1, ~~2011~~ 2018.

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

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