

SESSION OF 2011

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2122

As Amended by Senate Committee of the Whole

Brief*

HB 2122, as amended, would make several changes to the Kansas Qualified Agricultural Ethyl Alcohol Producer Incentive Fund (Incentive Fund). The bill would:

- Extend the sunset date for the Incentive Fund from July 1, 2011, to July 1, 2018;
- Reduce the maximum incentive rate for producers from \$0.075 per gallon to \$0.035 per gallon;
- Allow any producer of agricultural ethyl alcohol (ethanol), who begins production on or after July 1, 2001, but prior to July 1, 2012, to receive \$0.035 per gallon of ethanol sold, if the producer has sold at least 5.0 million gallons;
- Allow any producer of cellulosic alcohol, who begins production on or after July 1, 2012, to receive \$0.035 per gallon of ethanol sold, if the producer has sold at least 5.0 million gallons. This provision would not apply to producers who commence alcohol production from grain; and
- On June 30 of each fiscal year, transfer any unencumbered balance in the Incentive Fund to the Motor Vehicle Fuel Tax Refund Fund.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Background

The current ethanol incentive provides an incentive payment of up to 7.5 cents per gallon for facilities that have new production of ethanol of at least five millions gallons in a year. No incentive is available for new or expanded production in excess of 15 million gallons per year. Incentive payments are limited to seven years per facility. Funding for the incentive comes from quarterly transfers of \$875,000 from motor fuel tax receipts to the Incentive Fund. If production exceeds the Incentive Fund balance, the annual distribution is prorated.

Representative Rick Billinger provided testimony to the House Committee on Energy and Utilities in support of the introduced version of the bill, which extended the sunset date of the Incentive Fund for seven years. He described the economic benefits received in his district from an ethanol producer that previously received incentive payments from the Incentive Fund. Other testimony in support of extending the Incentive Fund to July 1, 2018, came from representatives of the Kansas Association of Ethanol Processors, Conestoga Energy Partners, Abengoa Bioenergy, and Kansas Ethanol. Written testimony in support of the introduced version of the bill was received from Petroleum Marketers and Convenience Store Association of Kansas, Kansas Cooperative Council, Kansas Farm Bureau, and Kansas Corn Growers Association and Kansas Grain Sorghum Producers Association.

There was no testimony in opposition to the bill in the House Energy and Utilities Committee.

The House Committee made two changes to the bill. It reduced the incentive rate from \$0.075 per gallon to \$0.035 per gallon (the approximate prorated amount producers currently receive) and required that any unencumbered balance in the Incentive Fund at the end of the fiscal year be transferred to the the Motor Vehicle Fuel Tax Refund Fund, rather than carrying over in the Incentive Fund.

The Senate Committee on Agriculture received testimony in opposition to the bill from the Kansas Livestock Association (KLA), whose representative stated the KLA Board no longer believes it is necessary to continue a state ethanol production incentive program. In addition, the KLA testified that the KLA Board supports a transition to a market-based approach for the production of renewable fuels produced from grain.

The Senate Committee added language which allows producers of ethanol from grain to continue to receive the ethanol incentive as long as production commences prior to July 1, 2012. In addition, the Committee added language that provides an ethanol incentive for producers of cellulosic alcohol from non-grain sources after July 1, 2012.

The Senate Committee of the Whole approved a technical amendment that clarifies the language of the bill regarding the production of agricultural ethanol on or after July 1, 2011, but prior to July 1, 2012.

The fiscal note prepared by the Division of the Budget on the original bill indicates the Governor's budget recommendations for FY 2012 include continuing the annual \$3.5 million transfer to the Incentive Fund to finance production incentives to Kansas qualified ethanol producers. If the incentive is not extended, payments would cease to be effective July 1, 2011.