HOUSE BILL No. 2122

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

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

Section 1. K.S.A. 2010 Supp. 79-34,161 is hereby amended to read as follows: 79-34,161. On July 1, 2001, and quarterly thereafter, the state treasurer shall credit amounts as provided in this subsection from the amounts remaining after the state treasurer credits an amount to the motor vehicle fuel tax refund fund as provided in K.S.A. 79-3425, and amendments thereto, to the Kansas qualified agricultural ethyl alcohol producer incentive fund. The current production account and the new production account are hereby created in the Kansas qualified agricultural ethyl alcohol producer incentive fund. During fiscal years 2002, 2003 and 2004, the state treasurer (a) shall credit $500,000 each calendar quarter to the current production account of the Kansas qualified agricultural ethyl alcohol producer incentive fund, and (b) shall credit $375,000 each calendar quarter to the new production account of the Kansas qualified agricultural ethyl alcohol producer incentive fund. During fiscal years 2005 through ~~2011~~ *2018*, the state treasurer shall credit $875,000 each calendar quarter to the new production account of the Kansas qualified agricultural ethyl alcohol producer incentive fund. On July 1 of each fiscal year through fiscal year ~~2011~~ *2018*, or as soon after each such date as information is available, the secretary of revenue shall certify to the director of accounts and reports the amount of any unencumbered balance as of June 30 of the preceding fiscal year in the current production account of such fund and the director of accounts and reports shall transfer the amount certified from the current producer account to the new production account of the Kansas qualified agricultural ethyl alcohol producer incentive fund. *After all amounts have been paid pursuant to certifications for the fiscal year ending on June 30,* any unencumbered balance as of June 30 of any fiscal year in the new production account of such fund shall ~~remain credited in the new production account for the payment of claims of new production incentives in ensuing fiscal years.~~ *be transferred by the director of accounts and reports to the motor vehicle fuel tax refund fund.* If the aggregate of outstanding claims made on the current production account of such fund is greater than the amount credited to such account, then such claims shall be paid on a pro rata basis. Each claim may be paid regardless of the fiscal year during which the claim was submitted.

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

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

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

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

(4) any producer who commences cellulosic alcohol production on or after July 1, 2012, the amount shall be $.035 for each gallon of agricultural ethyl alcohol sold by such producer to an alcohol blender, if such producer

has sold at least 5,000,000 gallons. No producer shall receive the production incentive pursuant to this subsection for more than 15,000,000 gallons sold. Any such amounts shall be paid from the new production account of the fund. This provision shall not apply to producers who commence alcohol production from grain.

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

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

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

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

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

Sec. 4. K.S.A. 2010 Supp. 79-34,161, 79-34,163 and 79-34,164 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

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HOUSE concurred in
SENATE amendments _____

_____
Speaker of the House.

_____
Chief Clerk of the House.

Passed the SENATE
as amended _____

_____
President of the Senate.

_____
Secretary of the Senate.

APPROVED _____

_____
Governor.