

HOUSE BILL No. 2011

AN ACT concerning certain ethyl alcohol production; relating to incentives therefor; amending K.S.A. 79-34,163 and 79-34,164 and K.S.A. 2000 Supp. 79-3425 and 79-34,161 and repealing the existing sections.

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

Section 1. K.S.A. 2000 Supp. 79-3425 is hereby amended to read as follows: 79-3425. All of the amounts collected under the motor-fuel tax law and amendments thereto, except amounts collected pursuant to K.S.A. 79-3408c, and amendments thereto, shall be remitted by the director to the state treasurer daily, and the state treasurer shall deposit all such amounts in the state treasury. The state treasurer shall credit such amount thereof as the director shall order in the motor-vehicle fuel tax refund fund to be used for the purpose of paying motor-vehicle fuel tax refunds as provided by law. The state treasurer shall credit the remainder of such amounts as follows: To the state highway fund amounts specified in K.S.A. 79-34,142, and amendments thereto, to a special city and county highway fund which is hereby created, amounts specified in K.S.A. 79-34,142, and amendments thereto, to be apportioned and distributed in the manner provided in K.S.A. 79-3425c, and amendments thereto, and to the *current production account and the new production account of the Kansas qualified agricultural ethyl alcohol producer incentive fund*, which is hereby created in the state treasury, in the amount and in the manner specified in K.S.A. 79-34,161, and amendments thereto, to be expended in the manner provided in K.S.A. 79-34,162, and amendments thereto.

Sec. 2. K.S.A. 2000 Supp. 79-34,161 is hereby amended to read as follows: 79-34,161. ~~On October 1, 1987~~ *July 1, 2001*, and quarterly thereafter, ~~the state treasurer shall credit \$625,000~~ *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, in the Kansas qualified agricultural ethyl alcohol producer incentive fund. 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, 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, 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. 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. 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. 3. K.S.A. 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 ~~not exceed \$.20 per gallon of agricultural ethyl alcohol sold to an alcohol blender.~~ *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 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, the amount shall be \$.075 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.

(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.

~~(b)~~ (d) The Kansas qualified agricultural ethyl alcohol producer shall file for the production incentive beginning ~~October 1, 1987~~ 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.

~~(c)~~ (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. 4. K.S.A. 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, ~~2004~~ 2011.

Sec. 5. K.S.A. 79-34,163 and 79-34,164 and K.S.A. 2000 Supp. 79-3425 and 79-34,161 are hereby repealed.

Sec. 6. 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

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.