

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 1513

By: DeWitt

6
7 COMMITTEE SUBSTITUTE

8 (Revenue and taxation - tax credit - ethanol
9 production -

10 effective date)

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12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY Section 1, Chapter 385, O.S.L.
15 2003, as amended by Section 1, Chapter 294, O.S.L. 2005 (68 O.S.
16 Supp. 2006, Section 2357.66), is amended to read as follows:

17 Section 2357.66 A. For tax years beginning after December 31,
18 2003, ~~and before January 1, 2011~~, there shall be allowed a credit
19 against the tax imposed by Section 2355 of this title, and against
20 the tax imposed by Section 2370 of this title, and against the taxes
21 imposed by Sections 624 and 628 of Title 36 of the Oklahoma Statutes
22 and actually paid to and placed into the General Revenue Fund for
23 any ethanol facility which is in production at the rate of at least
24 twenty-five percent (25%) of its name plate design capacity for the

1 production of ethanol, before denaturing, on or before December 31,
2 ~~2008~~ 2010. The completion of the construction of such facilities
3 must be after July 1, 2003. The credit shall be in the amount of
4 twenty cents (\$0.20) per gallon of ethanol produced and shall be
5 allowed for sixty (60) months beginning with the first month for
6 which the facility is eligible to receive such credit ~~and ending not~~
7 ~~later than December 31, 2010~~. The credit may only be claimed if the
8 ethanol facility maintains an average production rate of at least
9 twenty-five percent (25%) of its name plate design capacity for at
10 least six (6) months after the first month for which it is eligible
11 to receive such credit.

12 B. As used in this section:

13 1. "Ethanol facility" means a plant or facility primarily
14 engaged in the production of ethanol or ethyl alcohol derived from
15 grain components, coproducts, or byproducts; and

16 2. "Name plate design capacity" means the original designed
17 capacity of an ethanol facility. Capacity may be specified as
18 bushels of grain ground or gallons of ethanol produced per year.

19 C. Any ethanol facility eligible for a tax credit under
20 subsection A of this section shall also receive a credit against the
21 tax imposed by Section 2355 of this title in the amount of twenty
22 cents (\$0.20) per gallon of ethanol produced in excess of the
23 original name plate design capacity which results from expansion of
24 the facility completed on or after July 1, 2003, and before December

1 31, ~~2006~~ 2010. Such tax credit shall be allowed for sixty (60)
2 months beginning with the first month for which production from the
3 expanded facility is eligible to receive such tax credit ~~and ending~~
4 ~~not later than December 31, 2010.~~

5 D. 1. Beginning January 1, 2011, an ethanol facility shall
6 receive a credit against the tax imposed by Section 2355 of this
7 title in the amount of seven and one-half cents (\$0.075) per gallon
8 of ethanol, before denaturing, for new production for a period not
9 to exceed thirty-six (36) consecutive months.

10 2. For purposes of this subsection, "new production" means
11 production which results from a new facility, a facility which has
12 not received credits prior to January 1, 2011, or the expansion of
13 the capacity of an existing facility by at least two million
14 (2,000,000) gallons first placed into service after January 1, 2011,
15 as certified by the design engineer of the facility to the Oklahoma
16 Tax Commission.

17 3. For expansion of the capacity of an existing facility, "new
18 production" means annual production in excess of twelve times the
19 monthly average of the highest three (3) months of ethanol
20 production at an ethanol facility during the twenty-four-month
21 period immediately preceding certification of the facility by the
22 design engineer.

23 4. No credits shall be allowed under this subsection for
24 expansion of the capacity of an existing facility until production

1 is in excess of twelve times the three-month average amount
2 determined under this subsection during any twelve-consecutive-month
3 period beginning no sooner than January 1, 2011.

4 5. The amount of a credit granted pursuant to this section
5 based on new production shall be approved by the Tax Commission
6 based on such ethanol production records as may be necessary to
7 reasonably determine the level of new production.

8 E. 1. The credits described in this section shall be given
9 only for ethanol produced at a plant in this state at which all
10 fermentation, distillation, and dehydration takes place. No credit
11 shall be given on ethanol produced or sold for use in the production
12 of distilled spirits.

13 2. Not more than twenty-five million (25,000,000) gallons of
14 ethanol produced annually at any single ethanol facility nor more
15 than seventy-five million (75,000,000) gallons of ethanol produced
16 annually at all ethanol facilities in this state shall be eligible
17 for the credits in subsections A and C of this section, and the
18 credits may only be claimed by a producer for the periods specified
19 in subsections A and C of this section.

20 3. Not more than ten million (10,000,000) gallons of ethanol
21 produced during any twelve-consecutive-month period at any single
22 ethanol facility nor more than thirty million (30,000,000) gallons
23 of ethanol produced annually at all ethanol facilities in this state
24 shall be eligible for the credit described in subsection D of this

1 section, and the credit may only be claimed by a producer for the
2 periods specified in subsection D of this section.

3 4. Not more than one hundred twenty-five million (125,000,000)
4 gallons of ethanol produced at an ethanol facility by the end of the
5 sixty-month period set forth in subsection A or C of this section
6 shall be eligible for the credit under such subsection. An ethanol
7 facility which receives a credit for ethanol produced under
8 subsection A or C of this section shall not receive a credit under
9 subsection D of this section until its eligibility to receive a
10 credit under subsection A or C of this section has been completed.

11 F. The Tax Commission shall prescribe an application form and
12 promulgate rules for claiming credits under this section.

13 G. For purposes of ascertaining the correctness of any
14 application for claiming a credit provided in this section, the Tax
15 Commission may examine or cause to have examined, by any agent or
16 representative designated for that purpose, any books, papers,
17 records, or memoranda bearing upon such matters.

18 SECTION 2. This act shall become effective November 1, 2007.

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