

ETHANOL PRODUCTION INCENTIVE CASH FUND (EPIC) REPORT

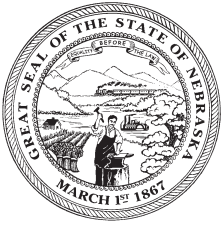
Prepared by:

The Nebraska Department of Revenue
Motor Fuels Division

and

The Nebraska Ethanol Board

December 2012



Dave Heineman
Governor

STATE OF NEBRASKA

DEPARTMENT OF REVENUE
Douglas A. Ewald, *Tax Commissioner*
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November 30, 2012

Mr. Patrick J. O'Donnell
Clerk of the Legislature
Nebraska State Capitol Building
Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

This final report has been prepared by the Nebraska Department of Revenue and the Nebraska Ethanol Board in compliance with the provisions of Neb. Rev. Stat. § 66-1345(6), which states:

(6) On or before December 1, 2003, and each December 1 thereafter, the Department of Revenue and the Nebraska Ethanol Board shall jointly submit a report electronically to the Legislature which shall project the anticipated revenue and expenditures from the Ethanol Production Incentive Cash Fund through the termination of the ethanol production incentive programs pursuant to section 66-1344. The initial report shall include a projection of the amount of ethanol production for which the Department of Revenue has entered agreements to provide ethanol production credits pursuant to section 66-1344.01 and any additional ethanol production which the Department of Revenue and the Nebraska Ethanol Board reasonably anticipate may qualify for credits pursuant to section 66-1344.

The report is divided in four sections: Agreements; Analysis; Funding; and Conclusion.

- The Agreements section lists the 11 facilities that qualified for production credits, including their physical location and plant size.
- The Analysis section is based upon the combined data experiences of the Nebraska Department of Revenue and the Nebraska Ethanol Board.
- The Funding section identifies the various sources of funds for the program.
- The Conclusion section summarizes the results of the ethanol production credit program and estimates the fund balance at the end of the program.

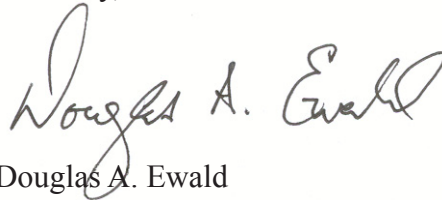
Mr. Patrick J. O'Donnell
November 30, 2012
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If you have any questions regarding this report, please contact:

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Sincerely,



Douglas A. Ewald
Tax Commissioner
Nebraska Department of Revenue

Sincerely,



Todd Sneller
Administrator
Nebraska Ethanol Board

cc: Senator Mike Flood, Speaker
Senator John Wightman, Chairperson, Executive Board of the Legislative Council
Senator Tom Carlson, Chairperson, Agriculture Committee
Senator Deb Fischer, Chairperson, Transportation & Telecommunications Committee
Senator Lavon Heidemann, Chairperson, Appropriations Committee
Senator Abbie Cornett, Chairperson, Revenue Committee
Governor Heineman
Gerry Oligmueller, State Budget Administrator
Lyn Heaton, Deputy State Budget Administrator
Lauren Kintner, Governor's Policy Research Office
Cindy Miserez, Budget Management Analyst

Agreements

The Nebraska Department of Revenue entered into agreements with 29 entities to provide ethanol production credits pursuant to [Neb. Rev. Stat. § 66-1344](#). Of those 29 entities, the following 11 met all the eligibility requirements by June 30, 2004.

Original Name	Plant Location	Plant Size (Gallons)
Cornhusker Energy Lexington LLC*	Lexington	40 million
Elkhorn Valley Ethanol LLC*	Norfolk	40 million
Horizon Renewable Energy LLC*	Cambridge	20 million
Husker Ag Processing LLC	Plainview	20 million
KAAPA Ethanol LLC	Axtell	30 million
Midwest Renewable Energy LLC	Sutherland	14 million
Nordic Biofuels of Ravenna LLC**	Ravenna	84 million
Platte Valley Fuel Ethanol LLC	Central City	40 million
S.W. Energy LLC*	McCook	30 million
Trenton Agri Products LLC	Trenton	30 million
Wheatland Industries LLC*	Madrid	40 million

* Denotes projects whose initial plant size is stated as 100,000 gallons.
Final plant size projected to increase to listed amount.

** Denotes project whose initial plant size is stated as 150,000 gallons.
Final plant size projected to increase to listed amount.

Analysis

Of the 11 plants that qualified on or before June 30, 2004, 10 are operational.

1. Cornhusker Energy Lexington LLC
2. Elkhorn Valley Ethanol LLC
3. Nebraska Corn Processing LLC (originally Horizon Renewable Energy LLC)
4. Husker Ag Processing LLC
5. KAAPA Ethanol LLC
6. Midwest Renewable Energy LLC
7. Abengoa Bioenergy of Nebraska LLC (originally Nordic Biofuels of Ravenna LLC)
8. Green Plains Central City LLC (originally Platte Valley Fuel Ethanol LLC)
9. Trenton Agri Products LLC
10. Mid America Agri Products/Wheatland LLC (originally Wheatland Industries LLC)

S.W. Energy LLC demonstrated no visible activity since a small pilot plant qualified the project for the production credit program in June, 2004.

In addition to the expenditures for the production credits earned by producers, a small amount of the Ethanol Production Incentive Cash (EPIC) Fund is utilized by the Department of Agriculture; [Neb. Rev. Stat. § 66-1345.02\(4\)](#) allows the Department of Agriculture to be reimbursed for the costs of collecting and enforcing the grain excise tax.

Funding

Funding was derived from several different sources. Funding sources included:

- Grain checkoff - an excise tax on the sale of each bushel of corn and each hundredweight of grain sorghum ([Neb. Rev. Stat. § 66-1345.01](#))
 - o Through September 30, 2004 \$0.00500;
 - o October 1, 2004 through September 30, 2005 \$0.00750; and
 - o October 2, 2005 through September 30, 2012 \$0.00875;
- General Funds ([Neb. Rev. Stat. § 66-1345.04](#));
- Transfers from the Petroleum Release Remedial Action Cash Fund for fiscal years 2004-2005 through fiscal year 2011-2012 ([Neb. Rev. Stat. § 66-1519](#));
- Off-road refunds - retention of a portion of tax refunded on motor vehicle fuels for purchases made between January 1, 2005 and December 31, 2009 ([Neb. Rev. Stat. § 66-726\[2\]](#));
- Denaturant tax - a tax on natural gasoline used as a denaturant for purchases made between January 1, 2005 and December 31, 2009 ([Neb. Rev. Stat. § 66-489\[2\]](#));
- Agricultural Alcohol Fuel Tax Fund (AAFTF) transfers – specific transfers from the AAFTF authorized during the 2009 Special Session;
- AAFTF transfers - those funds in excess of \$550,000 in the AAFTF, which would otherwise be designated to fund the Ethanol Board for fiscal years 2007-2008 through 2011-2012 ([Neb. Rev. Stat. § 66-489\[2\]](#)); and
- Interest while EPIC maintains a positive balance, which will continue to accrue until December 31, 2012.

Up to \$12 million in transfers from the Cash Reserve Fund to the EPIC Fund between July 1, 2011 and November 30, 2012 were authorized under [Neb. Rev. Stat. § 84-612\(7\)](#). Any transfers were required to be repaid to the Cash Reserve Fund by November 30, 2012 ([Neb. Rev. Stat. § 84-612\[8\]](#)). During the fiscal year 2011-2012, \$10,461,676 was transferred from the Cash Reserve Fund into the EPIC Fund. Repayment of \$6 million to the Cash Reserve Fund from the EPIC Fund was made in fiscal year 2011-2012. The remainder was transferred on November 8, 2012.

Conclusion

One facility began earning credits in fiscal year 2002-2003, and a second facility started claiming credits in the following fiscal year. These two facilities completed their entitlement period during fiscal year 2010-2011, and the other eight qualified facilities completed eligibility during fiscal year 2011-2012. Four of the ten producers received the maximum credits allowed under that statute, with the ten plants earning over \$183.7 million in total production credits during the program. It is estimated that the EPIC Fund will have a balance of \$51,295 on December 31, 2012.

Projected EPIC Fund Activity – FY 2012-2013

Estimated Expenditures Production Credits*

Plant 1	\$0
Plant 2	0
Plant 3	0
Plant 4	0
Plant 5	0
Plant 6	0
Plant 7	0
Plant 8	0
Plant 9	0
Plant 10	0
Plant 11	0
Totals	\$0

* All plants completed their eligibility to earn production credits by the end of FY2011-2012.

Estimated Revenues

Grain Checkoff	\$3,775,000
General Funds	0
Petroleum Release Remedial Action Fee	0
Off-Road Refund and Denaturant Tax	246
AAFTF Transfers - If in excess of \$550,000	0
Transfers from the Cash Reserve Fund	0
Interest on Invested Funds	28,117
Totals	\$3,803,363

Estimated Cash Flow

EPIC Beginning Balance	\$717,959
Revenues	3,803,363
Expenditures - Production Credits	(0)
Expenditures - Department of Agriculture Expenses	(8,351)
Repayment to the Cash Reserve Fund - Transferred on November 8, 2012	(4,461,676)
Projected EPIC Fund Balance December 31, 2012	\$51,295

Summary of Program Activity

LB 536 Ethanol Production Incentive Credits

FY 2001-2002 through 2012-2013

Additional detail found on annual [spreadsheet](#).

EPIC Fund beginning balance July 1, 2001	\$3,218,865
Adjustment for credits earned under previous credit program	(6,475,042)
Revenues	
Grain Checkoff	105,069,479
General Funds	64,750,000
Petroleum Release Remedial Action Cash Fund	12,000,000
Off-Road Refund and Denaturant Tax	2,038,192
AAFTF Transfers	242,024
Transfers from the Cash Reserve Fund	10,461,676
Interest	3,170,418
Expenditures	
Production Credits	(\$183,736,286)
Department of Agriculture Expenses	(226,355)
Repayment to the Cash Reserve Fund	(10,461,676)
Projected EPIC Fund balance December 31, 2012	\$51,295