EPIC Report

Prepared by:

The Nebraska Department of Revenue
Motor Fuels Division
and
The Nebraska Ethanol Board

December 2007

Dave Heineman
Governor

STATE OF NEBRASKA
DEPARTMENT OF REVENUE
Douglas A. Ewald, Tax Commissioner
Catherine D. Lang, Deputy Tax Commissioner
MOTOR FUELS DIVISION
301 Centennial Mall South
P.O. Box 98904, Lincoln, Nebraska 68509-8904
Phone: (402) 471-5730 • Fax (402) 471-5608
www.revenue.ne.gov/fuels

November 30, 2007

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

Dear Mr. O'Donnell:

This 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 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 presented in four sections: Agreements, Analysis, Funding, and Conclusion. The Agreement section lists the eleven facilities that have qualified for credits. It identifies their physical location and plant size. The Analysis section is based upon the combined data experiences of the Department of Revenue and Nebraska Ethanol Board. The Funding section identifies the various sources of funds for the fiscal years covered in this report. Finally, the Conclusion section discusses our best estimates of costs and how these costs relate to the time periods available to earn and use credits under NEB. REV. STAT. § 66-1344.

If you have any questions regarding this report, please contact either Karen Rowley, Audit Manager, Nebraska Department of Revenue Motor Fuels Division, at 471-5756 or Steve Sorum, Project Manager, Nebraska Ethanol Board, at 471-2941.

Sincerely,	Sincerely,
Douglas A. Ewald	Todd Sneller
Douglas A. Ewald	Todd Sneller
State Tax Commissioner	Administrator
Nebraska Department of Revenue	Nebraska Ethanol Board

cc: Senator Mike Flood, Speaker
Senator Pat Engel, Chair, Executive Board of the Legislative Council
Senator Phillip Erdman, Chair, Agriculture Committee
Senator Deb Fischer, Chair, Transportation & Telecommunications Committee
Senator Lavon Heidemann, Chair, Appropriations Committee
Senator Ray Janssen, Chair, Revenue Committee
Governor's Office
Legislative Fiscal Analyst

Agreements

As required by NEB. REV. STAT. § 66-1344.01, the Department of Revenue entered into agreements with twenty-nine entities to provide ethanol credits pursuant to NEB. REV. STAT. § 66-1344. Of those twenty-nine entities, the following eleven met all the eligibility requirements by June 30, 2004.

Name	Plant Location	Plant Size (Gallons)
*Cornhusker Energy Lexington LLC	Lexington	40 million
*Elkhorn Valley Ethanol LLC	Norfolk	40 million
*Mid America Agri Products/Horizon LLC	Cambridge	20 million
Husker Ag Processing LLC	Plainview	20 million
KAAPA LLC	Axtell	30 million
Midwest Renewable Energy LLC	Sutherland	14 million
**Nordic Bioenergy of Nebraska/Abengoa 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
*Mid America Agri Products/Wheatland 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

There will be no further activity under NEB. REV. STAT. § 66-1344(1)(LB605). That program was for ethanol production through December 31, 2003. The statute of limitations for filing under that program has expired.

Of the eleven plants that qualified on or before June 30, 2004, nine are operational. They are:

Abengoa Bioenergy of Nebraska LLC
Cornhusker Energy Lexington LLC
Elkhorn Valley Ethanol LLC
Husker AG Processing LLC
KAAPA LLC
Mid America Agri Products/Wheatland
Midwest Renewable Energy LLC
Platte Valley Fuel Ethanol LLC
Trenton Agri Products LLC

It is anticipated that the remaining two plants will become operational during the periods indicated:

> Mid America Agri Products/Horizon LLC is projected to commence production in 2008.
>
> S.W. Energy LLC is unlikely to commence production prior to mid 2009.

Of the eleven plants that qualified, six were small plants frequently referred to as pilot projects. Five of the six were 100,000 gallon plants and the other was a 150,000 gallon plant. All of these are required to be permanent and will become part of any future plant built at those locations. Most told us these pilot projects will become Research and Development units when the larger plant is built. All of these plants shut down operations after meeting the eligibility requirements.

Funding

Funding is derived from several different sources. They include: the general fund; transfers from the Petroleum Release Remedial Action Cash Fund; an excise tax on the sale of corn and grain sorghum; retention of a portion of tax refunded on motor fuels; a tax on natural gasoline used as a denaturant, those funds in excess of $550,000 otherwise designated to fund the Ethanol Board, and interest as it becomes available while the EPIC Fund maintains a positive balance. The following table identifies the amounts and sources of these funds for fiscal years 2007-2008 through 2012-2013.

Source of Funding
Ethanol Production Incentive Cash Fund

(All amounts are in millions of dollars)

Fiscal Year						Funding Source	
07-08	08-09	09-10	10-11	11-12	12-13		
21.0*	2.5	2.5	2.5	2.5		§ 66-1345.04	General Fund
1.5	1.5	1.5	1.5	1.5		§ 66-1519	PRF
11.375	11.375	11.375	11.375	11.375	2.844	§ 66-1345.01	Grain Check-off
0.575	0.725	0.675				§ 66-726(2)	Off-Road Refunds & § 66-489(2) Denaturant Tax
	0.2	0.8	0.8	0.8		§ 66-489(2)	Excess Funding
34.45	16.3	16.85	16.175	16.175	2.844	Totals	

* Includes additional 1.5 to back-fund fiscal year 02-03.

Conclusion

This report assumes credits being earned and claimed by eleven facilities. We project that two facilities will complete their entitlement period during fiscal year 2010/2011 and one will complete its entitlement period during fiscal year 2007/2008. We anticipate the remaining eight facilities will continue earning and claiming credits through fiscal year 2011/2012.

We estimate that the EPIC Fund will no longer be able to meet its projected obligations during fiscal year 2009-2010. At the conclusion of the entitlement periods available to qualified claimants on June 30, 2012, we estimate unpaid credits of approximately $18 million will remain.

Projected EPIC Fund Balance

EPIC Fund - Estimated Expenditures

FY	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012	2012/2013	Totals
Plant 1	(2,812,500)	(2,812,500)	(2,812,500)	(2,052,500)			(10,490,000)
Plant 2	(2,812,500)	(2,812,500)	(2,812,500)	(2,812,500)			(11,250,000)
Plant 3	(2,812,500)	(2,812,500)	(2,812,500)	(2,812,500)	(2,312,500)		(13,562,500)
Plant 4	(2,812,500)	(2,812,500)	(2,812,500)	(2,812,500)	(2,812,500)		(14,062,500)
Plant 5	(2,812,500)	(2,812,500)	(2,812,500)	(2,812,500)	(2,812,500)		(14,062,500)
Plant 6	(2,812,500)						(2,812,500)
Plant 7	(2,000,000)	(2,812,500)	(2,812,500)	(2,812,500)	(2,812,500)		(13,250,000)
Plant 8	(2,812,500)	(2,812,500)	(2,812,500)	(2,812,500)	(2,812,500)		(14,062,500)
Plant 9	(2,812,500)	(2,812,500)	(2,812,500)	(2,812,500)	(2,812,500)		(14,062,500)
Plant 10	(1,000,000)	(2,812,500)	(2,812,500)	(2,812,500)	(2,812,500)		(12,250,000)
Plant 11			(2,812,500)	(2,812,500)	(2,812,500)		(8,437,500)
Totals	(25,500,000)	(25,312,500)	(28,125,000)	(27,365,000)	(22,000,000)		(128,302,500)

EPIC Fund - Estimated Revenues

FY	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012	2012/2013	Totals
Checkoff	11,375,000	11,375,000	11,375,000	11,375,000	11,375,000	2,843,750	59,718,750
General Funds	21,000,000	2,500,000	2,500,000	2,500,000	2,500,000		31,000,000
PRF	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000		7,500,000
Off-Road Refund	575,000	725,000	675,000				1,975,000
NEB Transfers - (Excess of $550,000 revenue)		200,000	800,000	800,000	800,000		2,600,000
	34,450,000	16,300,000	16,850,000	16,175,000	16,175,000	2,843,750	102,793,750

EPIC Fund - Estimated Cash Flow

FY	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012	2012/2013	Totals
Projected EPIC Beginning Balance	8,845,875	18,105,481	9,726,672	(1,207,894)	(12,397,894)	(18,222,894)	
EPIC Fund - Revenues	34,450,000	16,300,000	16,850,000	16,175,000	16,175,000	2,843,750	102,793,750
EPIC Fund - Expenditures	(25,500,000)	(25,312,500)	(28,125,000)	(27,365,000)	(22,000,000)	0	(128,302,500)
Interest on Invested Funds	309,606	633,692	340,434	0	0	0	1,283,731
	18,105,481	9,726,672	(1,207,894)	(12,397,894)	(18,222,894)	(15,379,144)	

Interest Rate on Invested Funds of 2.9%