

AMENDMENTS TO LB894

Introduced by Agriculture.

1 1. Strike the original sections and insert the following new
2 sections:

3 **Section 1.** Section 75-901, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 75-901 Sections 75-901 to 75-910 and section 5 of this act shall be
6 known and may be cited as the Grain Dealer Act.

7 **Sec. 2.** Section 75-902, Revised Statutes Cumulative Supplement,
8 2024, is amended to read:

9 75-902 For purposes of the Grain Dealer Act, unless the context
10 otherwise requires:

11 (1) Commission means the Public Service Commission;

12 (2) Direct delivery grain has the same meaning as in section 88-526;

13 (3) Direct delivery obligation has the same meaning as in section
14 88-526;

15 (4)(a) Grain means, but is not limited to, all unprocessed beans,
16 whole corn, milo and other sorghum, wheat, rye, barley, oats, millet,
17 safflower seed and processed plant pellets, alfalfa pellets, and any
18 other bulk pelleted agricultural storable commodity, except grain which
19 has been processed or packaged for distribution as seed.

20 (b) Grain includes all commodities described in subdivision (4)(a)
21 of this section whether grown and marketed as fungible commodities or
22 within segregated marketing channels, including, but not limited to,
23 certified organic commodities;

24 (5)(a) Grain dealer means any person, partnership, limited liability
25 company, corporation, or association that (i) buys grain from the
26 producer of the grain within this state for purposes of selling such
27 grain or (ii) acts as an employee or agent of a buyer or seller for

1 purposes of collective bargaining in the marketing of grain.

2 (b) Grain dealer does not include ~~(i) a feeder or custom feeder of~~
3 ~~livestock or poultry or (ii) a warehouse licensee under the Grain~~
4 ~~Warehouse Act or a warehouse licensee under the United States Warehouse~~
5 ~~Act of a warehouse located in Nebraska if the warehouse licensee does not~~
6 ~~buy, sell, or transport grain other than grain that is received at its~~
7 ~~licensed warehouse facilities;~~

8 (6) In-store transfer has the same meaning as in section 88-526;

9 (7) Post-direct delivery storage position has the same meaning as in
10 section 88-526; and

11 (8) Producer means the owner, tenant, or operator of land in this
12 state who has an interest in and receives all or part of the proceeds
13 from the sale of grain produced on that land.

14 **Sec. 3.** Section 75-903, Revised Statutes Cumulative Supplement,
15 2024, is amended to read:

16 75-903 (1) All grain dealers doing business in this state shall be
17 licensed by the commission. If the applicant is an individual, the
18 application shall include the applicant's social security number. To
19 procure and maintain a license, each grain dealer shall:

20 (a)(i) Prior to July 1, 2027, pay (1) Pay an annual fee of one
21 hundred dollars which shall be due on or before the date established by
22 the commission for each license. Such fees shall be paid to the State
23 Treasurer and credited to the General Fund; and

24 (ii) Beginning on July 1, 2027, pay a fee that is established by the
25 commission. Such fee shall not exceed one thousand five hundred dollars
26 for each license. Such fee shall be remitted to the State Treasurer for
27 credit to the Grain Dealer and Grain Warehouse Cash Fund. On or before
28 December 1, 2026, the commission shall establish such fees and
29 electronically submit a schedule of such fees to the Clerk of the
30 Legislature;

31 (b) (2) File a security pursuant to subsection (2) of this section;

1 and

2 (c) File a reviewed or audited fiscal year-end financial statement
3 prepared by an independent certified public accounting firm as required
4 in subsection (3) of this section.

5 (2)(a) The security required under subdivision (1)(b) of this
6 section ~~which~~ may be a bond issued by a corporate surety company and
7 payable to the commission, an irrevocable letter of credit, or a
8 certificate of deposit, subject to the approval of the commission, for
9 the benefit of any producer who files a valid claim arising from a sale
10 to a grain dealer.

11 (b) The security shall be in an amount set by the commission of not
12 less than thirty-five thousand dollars and not more than one million
13 dollars. Amounts used in the calculation of the security:

14 (i) Shall ~~shall~~ include all direct delivery grain purchases and
15 exchanges valued on the date delivery is made; and -

16 (ii) Shall ~~Amounts used in the calculation of the security shall not~~
17 include any transactions in which direct delivery grain is exchanged for
18 a post-direct delivery storage position and the post-direct delivery
19 storage position is created by an in-store transfer on the same date as
20 the delivery of the direct delivery grain.

21 (c) Such security shall be furnished on the following conditions,
22 unless otherwise provided in a written contract between the parties:

23 (i) If a written demand for payment is made and such demand is
24 accompanied by documented proof of delivery of grain, such payment shall
25 occur not later than ten business days after the date of such demand; and
26 ~~condition that the licensee will pay for any grain purchased upon demand,~~
27 ~~not later than fifteen days after the date of the last shipment of any~~
28 ~~contract.~~

29 (ii) If a licensee fails to pay for any grain that such licensee has
30 purchased within thirty days after such payment is due under subdivision
31 (c)(i) of this subsection, such licensee shall be liable to the seller

1 for interest on the unpaid amount pursuant to section 45-103.

2 (d) The liability of the surety shall cover purchases made by the
3 grain dealer during the time the bond is in force. A grain dealer's bond
4 filed with the commission shall be in continuous force and effect until
5 anceled by the surety. The liability of the surety on any bond required
6 by this section shall not accumulate for each successive license period
7 during which the bond is in force. ~~;~~ ~~and~~

8 (e) No seller shall have recourse to the licensee's security unless,
9 as of the date the commission initiates an administrative action against
10 the licensee, the seller has completed delivery of grain to the licensee
11 for which payment is due and payable. Any seller holding a deferred-
12 pricing, price-later, or similar contract under which title has passed
13 but no payment obligation has yet matured shall not be eligible to claim
14 against the security unless the payment obligation became due prior to
15 the date of such administrative action.

16 ~~(3) File a reviewed or audited fiscal year-end financial statement~~
17 ~~prepared by an independent certified public accounting firm.~~

18 (3)(a) If licensing as an individual, the financial statement shall
19 be prepared in accordance with Other Comprehensive Basis of Accountancy,
20 as filed with the board, for a personal financial statement, using
21 historical cost and accrual basis of accounting. If licensing as a
22 partnership, corporation, or limited liability company, the financial
23 statement shall be prepared in accordance with accounting principles
24 generally accepted.

25 (b) The financial statement shall include:

26 (i) ~~(a)~~ A statement of income showing profit or loss;

27 (ii) A ~~(b)~~ a balance sheet;

28 (iii) A ~~(c)~~ a statement of cash flow;

29 (iv) A ~~(d)~~ a statement of proprietor's capital or retained earnings;

30 (v) The ~~(e)~~ the volume and dollar value of the grain purchases the
31 licensee made in Nebraska during the fiscal year;

1 (vi) ~~The (f) the~~ volume and dollar value of transactions in which
2 direct delivery grain is exchanged for a post-direct delivery storage
3 position and the post-direct delivery storage position is not created by
4 an in-store transfer on the same date as the delivery of the direct
5 delivery grain; and

6 (vii) ~~The (g) the~~ accounting firm's certification, assurances,
7 opinions, and comments and the notes with respect to the financial
8 statement.

9 (c) If the volume and dollar value of the grain purchases is not
10 reported, the grain dealer shall file the maximum grain dealer security
11 as required by the Grain Dealer Act.

12 (d) ~~(4)~~ If an applicant for a grain dealer license is a wholly owned
13 subsidiary of a parent company and such a financial statement is not
14 prepared for the subsidiary, the parent company shall submit its reviewed
15 or audited fiscal year-end financial statement and shall execute an
16 unconditional guarantee agreement as prescribed by the commission.

17 **Sec. 4.** Section 75-904, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 75-904 Each grain dealer or his or her agent upon taking possession
20 of grain from a seller shall issue a receipt, contract, bill of lading,
21 or other written communication to the seller or his or her agent. The
22 grain dealer receipt, contract, bill of lading, or other written
23 communication issued by the grain dealer shall ~~include the provisions of~~
24 ~~section 75-905 and~~ be in such form as the Public Service Commission may
25 by rule and regulation require.

26 **Sec. 5.** The Grain Dealer and Grain Warehouse Cash Fund is created.
27 The fund shall be administered by the commission. The fund shall consist
28 of money credited to the fund pursuant to sections 75-903 and 88-529. It
29 is the intent of the Legislature to appropriate all money in the fund to
30 the commission for the purpose of defraying the expenses of administering
31 the Grain Dealer Act and the Grain Warehouse Act. Any money in the fund

1 available for investment shall be invested by the state investment
2 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
3 State Funds Investment Act.

4 **Sec. 6.** Section 88-527, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 88-527 (1) No person shall act as a warehouse operator without a
7 license issued pursuant to the Grain Warehouse Act ~~—Warehouses,~~
8 including except warehouses that which are licensed under the federal
9 United States Warehouse Act ~~, shall be licensed and regulated by the~~
10 commission.

11 (2)(a) The commission shall issue a license under the Grain
12 Warehouse Act to each warehouse that is licensed under the federal United
13 States Warehouse Act.

14 (b) A warehouse that is licensed under the Grain Warehouse Act and
15 the federal United States Warehouse Act:

16 (i) Shall submit to the commission copies of all regulatory filings
17 that such warehouse has submitted to or received from the United States
18 Department of Agriculture, including regulatory filings relating to
19 securities, insurance, yearly audits, and licenses; and

20 (ii) Shall not be required by the commission to submit any
21 regulatory filing that is not described in subdivision (b)(i) of this
22 subsection.

23 (c) Except to enforce this section, the commission shall not take
24 any administrative action against a warehouse that is licensed under the
25 federal United States Warehouse Act without the written consent of the
26 United States Department of Agriculture.

27 (3)(a) A warehouse that is not licensed under the federal United
28 States Warehouse Act shall be licensed and regulated by the commission as
29 provided in this subsection.

30 (b) If the applicant is an individual, the application shall include
31 the applicant's social security number. Such warehouses shall be

1 inspected by the commission at least once every twelve months.

2 (c) ~~(2)~~ If the commission determines that additional examinations
3 are necessary after a regular examination is completed at a warehouse,
4 the commission may charge such warehouse for the cost of the additional
5 examinations according to the commission's fee schedule. Warehouses shall
6 only be charged if such examinations are for reasons of irregularities
7 from the previous examination or if financial conditions warrant
8 additional examinations.

9 (d) ~~(3)~~ The commission may make available to the United States
10 Government or any of its agencies, including the Commodity Credit
11 Corporation, the results of inspections made and inspection reports
12 submitted by employees of the commission upon payment of such fees as may
13 be determined by the commission. The fees shall cover the actual cost of
14 the services rendered in regard to providing the information.

15 (e) ~~(4)~~ The commission may charge for inspections conducted at the
16 request of a warehouse licensee.

17 (f) ~~(5)~~ The commission may assess a surveillance fee against the
18 assets of a warehouse licensee for actual expenses incurred by the
19 commission in suspending a license or terminating the operations of a
20 warehouse licensee. The commission may enter into contracts for such
21 purpose and shall keep a record of all surveillance fees collected. All
22 surveillance fees collected by the commission shall be remitted to the
23 State Treasurer for credit to the Nebraska Grain Warehouse Surveillance
24 Cash Fund.

25 (g) ~~(6)~~ The commission may enter into agreements and contracts with
26 regulators in states which border Nebraska for the purpose of licensing
27 or examining any public grain warehouse operator which operates
28 facilities in such states. The commission shall assume all jurisdiction
29 over any warehouse operator headquartered in Nebraska regarding his or
30 her warehouse activity. A warehouse operator headquartered and licensed
31 in another state which acquires facilities in Nebraska is under the

1 jurisdiction of the headquarter state under the terms of such agreement
2 or contract.

3 **Sec. 7.** Section 88-529, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 88-529 (1) The commission shall charge an annual license fee for
6 each warehouse to be operated, except as provided in section 88-531. Such
7 fee is due on or before the date established by the commission for each
8 license. The fee for any license issued for less than twelve months shall
9 be prorated based on its duration.

10 (2) Prior to July 1, 2027, the The annual license fee shall be as
11 provided in this subsection ~~section~~.

	Capacity in Bushels			Fee
12				
13	0	—	10,000	\$ 45
14	10,001	—	25,000	57
15	25,001	—	50,000	68
16	50,001	—	75,000	78
17	75,001	—	100,000	90
18	100,001	—	150,000	102
19	150,001	—	200,000	113
20	200,001	—	250,000	125
21	250,001	—	300,000	135
22	300,001	—	350,000	147
23	350,001	—	400,000	156
24	400,001	—	450,000	170
25	450,001	—	500,000	180
26	500,001	—	600,000	192
27	600,001	—	700,000	203
28	700,001	—	800,000	215
29	800,001	—	900,000	225
30	900,001	—	1,000,000	237

1	1,000,001	—	2,000,000	338
2	2,000,001	—	3,000,000	395
3	3,000,001	—	4,000,000	450
4	4,000,001	—	5,000,000	507
5	5,000,001	—	6,000,000	563
6	6,000,001	—	7,000,000	620
7	7,000,001	—	8,000,000	675
8	8,000,001	—	9,000,000	732
9	9,000,001	—	10,000,000	788
10	10,000,001	—	11,000,000	845
11	11,000,001	—	15,000,000	1,070
12	15,000,001	—	20,000,000	1,350
13	20,000,001	—	25,000,000	1,632
14	25,000,001	—	30,000,000	1,913
15	30,000,001	—	40,000,000	2,475
16	40,000,001		or more	3,375

17 (3)(a) The commission shall, on or before December 1, 2026, adopt
18 and promulgate rules and regulations that establish the annual license
19 fee that applies beginning on July 1, 2027. The annual license fee shall
20 not exceed the following limits:

21 (i) For a warehouse that is licensed under the federal United States
22 Warehouse Act, zero dollars; and

23 (ii) For a warehouse that is not licensed under the federal United
24 States Warehouse Act, the fee established for the applicable commodity in
25 the 2025/2026 Rates Charged for AMS Services notice for entities with a
26 Commodity Credit Corporation agreement, as such notice existed on January
27 1, 2026, that was published by the Agricultural Marketing Service of the
28 United States Department of Agriculture.

29 (b) Beginning in 2027, on or after July 1 but on or before December
30 1 of each year, the commission may adopt and promulgate rules and

1 regulations that modify the annual license fee that applies beginning on
2 the next July 1. Any such fee shall not exceed the fee limits provided
3 under subdivision (a) of this subsection.

4 (c) On or after July 1 but on or before December 1 of each year, the
5 commission shall electronically submit a schedule of the fees that will
6 apply beginning on the next July 1 to the Clerk of the Legislature.

7 (4) Fees collected under this section shall be remitted to the State
8 Treasurer. The State Treasurer shall credit such fees that are paid:

9 (a) Prior to July 1, 2027, to the General Fund; and

10 (b) On or after July 1, 2027, to the Grain Dealer and Grain
11 Warehouse Cash Fund.

12 **Sec. 8.** Section 88-548, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 88-548 (1) Any grain dealer, person, firm, corporation, or
15 association in this state licensed under the federal United States
16 Warehouse Act ~~shall be exempt from the Grain Warehouse Act, except that~~
17 ~~each licensee under the United States Warehouse Act shall~~ (a) annually
18 notify the commission in writing of such license and shall notify the
19 commission at once in writing if the license is terminated, canceled, or
20 suspended and (b) post notification of such licensee's bond under the
21 United States Warehouse Act in a conspicuous place of business listing
22 the total amount of bond on the stored grain.

23 (2) No warehouse licensee, licensee under the federal United States
24 Warehouse Act, or grain dealer licensed pursuant to section 75-903 shall
25 use end-intake air probes that are not approved by the commission ~~which~~
26 ~~use a vacuum~~ to collect a sample from a load of grain to determine
27 foreign material content. The commission shall adopt and promulgate rules
28 and regulations regarding approval of grain probes. Any person who
29 violates this subsection shall be guilty of a Class I misdemeanor.

30 **Sec. 9.** Section 88-551, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 88-551 Except as provided in sections 88-527, 88-529, 88-545.01, and
2 88-552, all fees collected pursuant to the Grain Warehouse Act shall be
3 paid to the State Treasurer and credited to the General Fund.

4 **Sec. 10.** Original sections 75-901, 75-904, 88-527, 88-529, 88-548,
5 and 88-551, Reissue Revised Statutes of Nebraska, and sections 75-902 and
6 75-903, Revised Statutes Cumulative Supplement, 2024, are repealed.

7 **Sec. 11.** The following section is outright repealed: Section
8 75-905, Reissue Revised Statutes of Nebraska.