November 10, 2026

To: Nebraska Public Service Commission, Attn: terri.fritz@nebraska.gov
Commission.grain@nebraska.gov

From: Randy Stookey, SVP Government Affairs
Kansas Grain and Feed Association (KGFA) – Nebraska

Re: **Docket No. GW / GD-2026-001, amending Title 291, Chp. 8, Grain Warehouse and Grain Dealer Rules and Regulations in order to comply with Nebraska LB 894 (2026), published October 14, 2026.**

The Nebraska Public Service Commission (Commission) has proposed amendments to its Grain Warehouse and Grain Dealer Rules and Regulations in order to comply with Nebraska LB 894 (2026). KGFA submits these comments on behalf of its member companies to ask the Commission to omit three of the proposed provisions of Section 002.03(G) from the final regulation; the specific provisions and our reasoning follow.

These comments are submitted on behalf of KGFA - Nebraska Neighbors. Established in 1896, KGFA is a grain elevator industry trade association that provides government affairs services to the grain industry in Kansas and also to a growing number of independently owned grain warehouses in Nebraska.

KGFA's member companies in Nebraska transport, receive, store, treat, process and market various grains produced by farmers. KGFA members have a direct interest in the proposed changes to the grain warehouse regulations and submit the following comments on the proposed rulemaking.

Regulation Title 291, Chp. 8, Section 002.03 – License Application Requirements.

KGFA's position, in summary: two of the proposed amendments to Section 002.03 exceed the authority the legislature granted the Commission over dual-licensed grain warehouses under NRS 88-527, and a third, (G)(iii), is unnecessarily redundant of the statute. KGFA asks the Commission to omit proposed Sections 002.03(G)(iii), 002.03(G)(iv), and 002.03(G)(v) from the final regulation. Our reasoning follows.

LB 894 amended the Grain Warehouse Act and is codified at NRS 88-527. That statute defines what the Commission may require of dual-licensed warehouses and what it may not, and the Commission's proposed amendments must be measured against those limits.

The new statutory language requires USDA-licensed grain warehouses located in Nebraska to maintain a state warehouse license. NRS 88-527(1) and (2). Dual-licensing schemes of

this kind exist in at least 30 states. See *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218 (1947) (addressing the relationship between federal and state regulation of licensed grain warehouses).

The Commission is limited in its scope of regulatory oversight of dual-licensed grain warehouses by the authority granted under the new statutory language in NRS 88-527. Such oversight is generally limited to requiring the warehouse to submit to the Commission its regulatory filings with the USDA. NRS 88-527(2)(b).

Under NRS 88-527(2)(b)(i), dual-licensed warehouses must submit copies of all regulatory filings that they have submitted to or received from the USDA, including filings relating to securities, insurance, yearly audits, and licenses. The very next provision, NRS 88-527(2)(b)(ii), however, prohibits the Commission from requiring dual-licensed warehouses to submit any regulatory filing that is not included in subdivision (b)(i).

NRS 88-527(2)(c) restricts the Commission further: it prohibits the Commission from taking any administrative action against a federally licensed warehouse without the written consent of the USDA, except to enforce the requirements of the section. Read together with subdivision (b), this prohibition substantially restricts the Commission's administrative oversight of dual-licensed warehouses.

It is our understanding that the limiting language in the statute was finalized following negotiations between the Commission and industry, and that industry's primary concern was avoiding full, duplicative administrative costs and burdens for dual-licensed warehouses. KGFA agrees with that goal and supports reading the new statutory language consistently with it.

Three of the proposed provisions in Section 002.03(G) conflict with these statutory limits: (G)(iii) is redundant of the statute, and (G)(iv) and (G)(v) exceed the licensing and regulatory authority the legislature granted the Commission over dual-licensed grain warehouses.

For the reasons set forth above, we submit the following comments on the proposed regulation for your consideration:

- Title 291, Chp. 8, Section 002.03(G)(iii). This section is unnecessarily redundant because of the filing requirement already set forth in NRS 88-527(2)(b)(i). As it adds nothing to the statute, KGFA suggests that the Commission not include this section in the final regulation.

- Title 291, Chp. 8, Section 002.03(G)(iv). We strongly suggest that this section not be included in the final regulation because it appears to lack any statutory basis. As proposed, it would grant the Commission the authority to examine a Dual Licensee at least once every 36 months and, upon request, to require the Dual Licensee to make

available all books and records relating to the operation of the warehouse. That authority also exceeds the plain language and legislative intent of NRS 88-527(2)(b)(i) and (ii), which require only the USDA regulatory filings and prohibit the Commission from requiring any other regulatory filing.

- Title 291, Chp. 8, Section 002.03(G)(v). Except as provided in Section 002.03(G), this section states that "all Dual Licensees may be subject to the same rules and regulations as Warehouses solely licensed under the Grain Warehouse Act." This language goes well beyond the scope of authority granted by NRS 88-527. The open-ended phrase "may be subject" also creates unnecessary and unreasonable ambiguity for both the regulated industry and the Commission, because a dual-licensed warehouse cannot tell in advance which rules will be applied. We would strongly suggest that this section not be included in the final regulation.

KGFA respectfully asks the Commission not to adopt the rule as currently proposed and to omit Sections 002.03(G)(iii), 002.03(G)(iv), and 002.03(G)(v) from the final regulation. Section 002.03(G)(iii) duplicates NRS 88-527(2)(b)(i), and Sections 002.03(G)(iv) and 002.03(G)(v) exceed the authority granted by NRS 88-527(2).

We thank you for considering these comments and look forward to working with the Commission on further amendments.