

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 3, 2026
Rough Draft

DeKAY: Welcome to the Agriculture Committee. Are we ready, Linda?

LINDA SCHMIDT: Yes.

DeKAY: OK, thank you. Welcome to The Agriculture Committee. I am Senator Barry DeKay of Niobrara. I represent the 40th District and I serve as chair of this committee. The committee will take up the bills in the order posted on the agenda at the door. Our hearing today is your public part of the legislative process. This is your opportunity to explain your position on the proposed legislation before us today to offer insights and information for our consideration. The committee members might come and go during the hearing. This is just part of the process, as members can have bills to introduce in other committees. I ask that you abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Introducers will make initial statements followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. If you're planning to testify, please fill out a green sign-in sheet that is at the table at the back of the room before you come up to testify. Please print and it is important to complete the form in its entirety. When it is your turn to testify, hand the sign-in sheet to a page or the committee clerk. This will help make it a more accurate public record. If you do not wish to testify today, but would like to indicate your position on a bill, there's a yellow sign-in sheet at the back of the room. These sheets will be included in the hearing record. If you have a written statement or other handouts, please have 12 copies and hand them to the page when you come up to testify and they will distribute those to the committee. If you do not have enough copies, a page will make sufficient copies for you. Please speak clearly into the microphone, tell us your name, and please spell your first and last name to ensure we get an accurate record. We will be using a light system today for all testifiers. You will have 4 minutes to make initial remarks to the committee. When you begin, the green light will be on. When you see a yellow light, that means you have 1 minute remaining, and a red light indicates your time has ended and you should conclude your remarks. Questions from the committee that follow will provide an opportunity to further explain your position. No displays of support or opposition to a bill, vocal or otherwise, are allowed at a public hearing. Offenders may be asked to leave. The committee members with us today will introduce themselves starting at my far left.

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HOLDCROFT: Thank you. Rick Holdcroft, District 36, west and south Sarpy County.

RAYBOULD: Jane Raybould, Legislative District 28, central Lincoln.

IBACH: Teresa Ibach, LD 44, 8 counties in southwest Nebraska.

KAUTH: Kathleen Kauth, LD 31, the Millard area of Omaha.

STORM: Jared Storm, District 23: Saunders, Butler, Colfax County.

F. MEYER: Fred Meyer, District 41, six-- part of seven counties in central Nebraska north of Grand Island.

DeKAY: And Senator Ibach is the vice chair of this committee. To my immediate right is the committee research analyst, Rick Leonard, and our committee clerk, Linda Schmidt, is seated at my far left. Our pages for this committee, and I will let them introduce themselves.

ESTEN HYDE: Esten Hyde, studying at UNL Business Law from Auburn, Nebraska.

DEMET GEDIK: Hi, my name is Demet. I'm a poli sci student at UNL.

DeKAY: With that, we will open the hearing for the first item on the agenda, LB815. Senator Brandt, you can come forward.

BRANDT: Good afternoon, Chairman DeKay and members of the Agriculture Committee. For the record, my name is Tom Brandt, T-o-m B-r-a-n-d-t. I represent District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties. Today, I'm introducing LB815, which modernizes the mission, structure, and funding of the Nebraska Ethanol Board. The Nebraska Ethanol Board is a noncode cash-funded state agency dedicated to the promotion and development of renewable fuels that was created in 1971 and since then has helped expand the ethanol industry to what it is today. Currently, there are 24 ethanol plants in Nebraska producing more than 2 billion gallons of ethanol annually with an economic impact of more than \$6 billion per year. I have some testifiers following me that will be able to fill in more details regarding the Ethanol Board and its operations. For now, I will share that the modern ethanol industry is innovating and changing at a rapid pace, and it is necessary that the Nebraska Ethanol Board change with it. LB815 accomplishes this by modernizing the Nebraska Ethanol Board to match the current and future market in three key ways. First, the mission. LB815 cleans up outdated statutory language and reaffirms the

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Nebraska Ethanol Board's central focus on ethanol. We're looking forward to what's next in the industry. This includes further work to develop existing markets for ethanol as well as stronger engagement with new and emerging markets for ethanol and ethanol coproducts. Second, the structure. LB815 adds three ethanol producer voices to the Board, including the conversion of the existing business seat to an ethanol producer seat. This raises the total number of seats from seven to nine. Third, the funding. The Nebraska Ethanol Board's cash fund since the agency's founding has been the Agricultural Alcohol Fuel Tax Fund, AAFTF. Through a straightforward process, LB815 updates the AAFTF's revenue streams to ease sharp inflationary pressure and ensure sustainable funding for the Nebraska Ethanol Board moving forward. This is accomplished by a tax shift on dyed diesel, which actually lowers the taxes assessed on Nebraska's farmers. Again, other testifiers following me will be able to explain this funding mechanism update in full technical detail. LB815 is important legislation because it ensures long-term effectiveness of a state agency with a proven history of results. Overall, the provisions of the bill ensure that the Nebraska Ethanol Board will continue to best serve the ethanol industry both now and for years to come. Thank you for your consideration and I would answer any questions.

DeKAY: Thank you. Are there any questions for the senator? Seeing none, are you going to be here to close?

BRANDT: Yes, I will.

DeKAY: Thank you. We'll have our first proponent.

JAN TENBENSEL: Good afternoon, Chairman DeKay, members of the Agriculture Committee. My name is Jan tenBensel, J-a-n t-e-n-B-e-n-s-e-l, and I'm a farmer near Cambridge, Nebraska. I'm also currently serving as the Chairman of the Nebraska Ethanol Board, or the NEB. I am here today on behalf of the NEB and personally to testify in firm support of LB815, which modernizes the NEB's mission, structure, and funding. Since 1971, the NEB has played a transformative role in the expansion of Nebraska's ethanol industry. As the industry has grown and changed, the NEB has changed with it. We started with a mission to find new markets for Nebraska grain, which turned out to be ethanol primarily, and we officially became the Ethanol Board in the 1990s. Throughout our history, we have remained committed to our core mission of developing ethanol to add value to Nebraska agriculture, having invested \$30 million total into Nebraska ethanol, helping grow the industry to its current value of almost \$7

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billion each year, a solid return on investment. In the last 5 years alone, the NEB has invested \$500,000 a year into industry and adding tens of billions of dollars in value to the state of Nebraska. No state is better situated right now to take advantage of the expanding ethanol use than Nebraska. The Legislature has played a big role and, and a big part in setting Nebraska up for success. And as a board, we want to modernize our statutes to lead to this expansion. Over the next 15 years, this bill could mean billions to the state economy with the economic activity brought, brought forth by the ethanol industry. But the true value is something even the statisticians don't do justice to. How do you put a price tag on the value of bringing a generation back to the farm? The ethanol industry brought an entire generation back to the farm 25 years ago. And it's time to bring another generation back to the farm now. And how do you assign the value to breathing life into small towns? Ethanol-- by bringing this generation back, we, we, we help the rural economy. We help the rural, the rural population, rural Nebraska and the cities that rural Nebraska supports. This gathers so much value and so much moving forward and progressive. It's just, it's just been the right thing to do for a long time. You know, part of the reason to do this is the, the, the cost of doing anything, all the research that we've done on [INAUDIBLE] chemicals, looking at off-road use, SAF, aviation fuels, marine use, and all the value add that, as the Governor talks about value adding in Nebraska, we need to value add every kernel of corn that we can in this state to add more value to, to the economy of Nebraska. And as a lifelong farmer and someone who has, I've seen the ethanol industry from the beginning, and I know firsthand the value that renewable fuels can create for Nebraska and have created. My farm is close to the Nebraska corn processing, an ethanol plant in Cambridge, Nebraska. There is no question that having an ethanol plant nearby provides a steady and reliable market for my corn and the corn of thousands of other Nebraska farmers. As the farm economy struggles with the effects of another record crop and not enough demand, the quickest and best way to provide relief to our farmers is through increased ethanol production and use. It is abundantly clear that we need a forward-thinking legislation like LB815 to uplift our rural communities and support our farmers, and we need it now. The Ethanol Board has spent more than 5 decades working diligently to expand this industry and to where it is today, and it is time to move to our next chapter. LB815 is that necessary next chapter, and, again, I am fully in support of this bill. The NEB thanks Senator Brandt for bringing this important bill, and I will do my best to answer a few questions at this time. Thank you.

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DeKAY: Thank you. Senator Meyer.

F. MEYER: Thank you for being here today. As, as you look down the horizon, on the horizon for the future of ethanol, what are two or three future uses that you might be aware of that's being explored, the technology and the research that's being done on that?

JAN TENBENSEL: So when I, when I speak about this, I always like to say, you know, what's short term, medium term, and long term? Our short-term E15 all day long. Just the additional brine that we can get from those gallons of E-15 right now. Every 1% of E15 in the national fuel supply equals about 470 million bushels of corn brine. Significant when have-- when we're looking at 2 billion bushels to carry out in corn. So these are significant numbers. In the medium term, I look at marine fuel. Maersk right now in Europe is working on 10% blends and 50% blends in some of their ships. Maersk developed about, I believe, 25 methanol ships. And they're finding it hard to source the methanol for them. So they're, they're moving to more of a, a, hey, can we, can we blend ethanol and methanol in our ships? Now, the majority of the 100 billion gallon shipping market, ocean-going shipping market is mostly bunker fuel, like number six, number six bunker fuel which is essentially not liquid at room temperature. So it's, it's junk, it's, it's highly polluted, it's, it's just terrible stuff. And the more ethanol we can get into these systems to help clean up these fuels, the better. So I'm also going to go back to the medium and the long term. Long term is going to be SAF. My worst case scenario is if we have a situation where we-- where, where Europe is, is requiring planes going to Europe or Japan, for instance, to have sustainable aviation fuel in them. And we have to import that aviation fuel in order to have the aviation fuel at O'Hare or Denver International. You know, these are problems that could, that could develop. But we have the capacity, and especially in Nebraska with our carbon sequestration, we have the ability to produce those fuels and produce the ethanol as the feedstock for those fuels. Now, you know, that's not a tomorrow, that, that's, that's into the medium to the long term. But, you know, I feel the, the off-road usage, the-- but it just takes a lot of research. John Deere has prototype ethanol fuel tractors right now. But we also have to remember in the ethanol process we're creating, I don't have the number in front of me but, somewhere around 25 to 30 gallons of, of potential renewable or biodiesel per acre of corn produced in the United States. You know, that's, that's significant. And-- so there are, there are so many coproducts and so many routes to go, the long term, even, even if we had a full [INAUDIBLE], we can look at renewable chemicals and, and

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ethane production to, to go in everything from the chair I'm sitting on to what goes into your shoes. So it's a, it's a bright future, but it takes a lot of push and a lot of research and a lot of knowledge to, to go forward into that.

F. MEYER: So, you know, we're asking to increase the, the fee portion. So I guess as, as I'm asking questions, if there's any farmers that are listening, I want them to understand that-- what this fee increase is being used for. So when you talk about ocean-going vessels and combining methanol and ethanol, what type of engines are those? They're, obviously, not diesel engines, or were they conversions?

JAN TENBENSEL: Well, some company that we're--

F. MEYER: Am I getting too deep in the weeds here?

JAN TENBENSEL: Oh, no. I could talk about, I could talk about this all day. I don't think you want to hear me talk all day, but-- so there's, there's been companies like ClearFlame and, and research at Purdue University to, to, to retrofit existing diesel engines into ethanol burning engines. The, the, the-- I don't, I don't know the specific design of the methanol engines that they're talking about with Maersk, but I, I, I know we can get that information to you.

F. MEYER: OK. I would appreciate that. And then also when you're talking about SAF fuel for, for replace Jet A. So is that a combination of soy diesel and ethanol or is it strictly an ethanol product?

JAN TENBENSEL: Well, when you talk about SAF, there are, are two ways to go. Of course, with your, with your, your, your soy diesel, turn into renewable diesel, that is essentially a drop-in product. And you, you still with the ASTM specs, I believe you can only have 50% of that product or 50% of Alcohol-to-Jet. What we would be more concerned is Alcohol-to-Jet with the exception of the corn oil that can be turned into renewable diesel or into renewable aviation fuel as an oil product versus an Alcohol-to-Jet product.

F. MEYER: OK, so it'd be the, the oil coming off of the ethanol.

JAN TENBENSEL: That would be, that would be one direction and then the other direction would be the actual alcohol changed into jet fuel, which is a conversion process that, that, that has a little more work to be done. But it's, it's, it's functional now, but it's not quite fully, in my opinion, commercialized yet.

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F. MEYER: Thank you.

DeKAY: Any other questions? Senator Raybould.

RAYBOULD: Thank you, Mr. Tenbenschel. Could you tell us a little bit about how is the, the Ethanol Board currently funded? What's the primary source?

JAN TENBENSEL: The primary source right now, historically and primarily, off-road, there is a, a, a refund for off-road gasoline tax, which has become a very, very small thing. I didn't even know it existed myself until I was part of the Ethanol Board. And also there is an excise tax on denaturant used for ethanol. By law, I mean we go back to, like, 1863 to make sure that you don't actually drink the products coming out of the ethanol plants, which I wouldn't recommend it. To, to poison those, they have to be denatured, so that therefore they cannot be palatable, cannot be drunk by humans, or, or anything for that matter. So through that denaturant chemical or renewable gasoline, or excuse me, natural gasoline is what's usually used, or there is also a product called renewable naphtha that comes from the biodiesel and renewable diesel production that can be used for denaturant also. That we have a small excise tax on that, that generates about \$500,000, \$550,000 a year for us right now.

RAYBOULD: And then-- so who is the primary user of those products that you mentioned?

JAN TENBENSEL: Of the--

RAYBOULD: That are being taxed currently.

JAN TENBENSEL: Oh, currently, it's the, it's the ethanol, it's the ethanol industry as the denaturant for the industry.

RAYBOULD: OK, so the ethanol users are the ones that are getting taxed, it's not--

JAN TENBENSEL: Excuse me, the production. When I say users of those actual products, it's a denaturant tax. Now, we also have a in lieu of denaturant, some markets don't want denatured ethanol because ethanol is a very pure molecule and they don't want the denaturants to go into the ethanol product itself. So there is in lieu of denaturant. So you can pay the excise tax without using the, the denaturant.

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RAYBOULD: And so the, the fee increases that are being proposed, they're on which product and who are the users of that product?

JAN TENBENSEL: So I'm going to let my Executive Director cover all the, the fine details of the, of the actual precision taxing, so. If that's all right? Thank you.

RAYBOULD: OK. Thank you.

DeKAY: Any other questions? I have, right now, three, unless something else pops in mind. Number one, can you provide us with an update on the efforts to utilize ethanol and off-road diesel engines as part of a strategy to meet the EPA's Tier 4 emission standards for off-road diesel engines, probably in conjunction in lieu of DEF products and diesel engines?

JAN TENBENSEL: Well, I don't have the exact-- I could speak on that, but I don't have the exact in lieu of DEF. I know that's one of the goals that has been brought forward by a, a number of the off-road usage and possibly Ben would have a little more information on that.

DeKAY: OK. And then next question. Could running off-road vehicles on ethanol or diesel products potentially eliminate the need for emissions control equipment to control emissions on diesel farm tractors and off-road equipment?

JAN TENBENSEL: I mean, I believe so, but like I say, I'm going to let Ben speak on that a little more.

DeKAY: OK, last question. You talked a little bit about added value. Do producers that sell corn or beans to an ethanol plant, do they get a bid on what the projected in-product use is going to be, whether it's aviation fuel, whether it's E15, E85, or what-- are they-- bid on a base price of what the corn is worth and then, then the ethanol industry determines how they want to use that and captures that price?

JAN TENBENSEL: Dawn will be up here for Renewable Fuels Nebraska, but I would say that the, the higher price that the value of the, the plant is producing, the, the better the basis they would be able to pay, in my opinion.

DeKAY: OK.

JAN TENBENSEL: I would say a bankrupt ethanol plant is a terrible basis.

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DeKAY: I'll give her a second to think about it then. OK, any other questions? Ben-- or Senator Hansen.

HANSEN: Yeah. I'm sorry, I missed your affiliation, you're with-- or are you on the Board?

JAN TENBENSEL: I'm Chair of the Nebraska Ethanol Board right now,--

HANSEN: OK.

JAN TENBENSEL: --but I farm near Cambridge, Nebraska.

HANSEN: There's a section here about your ability to accept gifts, donations, money, and services. Do you accept a lot of gifts, money? [INAUDIBLE] put that in there.

JAN TENBENSEL: No, I don't know. I'm not sure about that.

HANSEN: OK. [INAUDIBLE]

JAN TENBENSEL: We always have to have safeguards, of course, I'm just assuming that there's always a good idea to be cautious.

HANSEN: Yeah. [INAUDIBLE] that's including in kind of resources such as grain owned by the Commodity Credit Corporation. And, you know, like, you're [INAUDIBLE] a lot of it and that's why you took it out of here or none of it and that's why you left it out?

JAN TENBENSEL: I think I'm going to make the assumption, which is bad, that that's old language from the '70s.

HANSEN: Probably.

JAN TENBENSEL: You know, that--

HANSEN: OK. Thanks.

JAN TENBENSEL: But, no, I've never, never received grain for anything.

DeKAY: Senator, Senator Kauth.

KAUTH: You realize you're missing out, right?

JAN TENBENSEL: Yeah, I'm missing out on something, yeah.

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KAUTH: So the, the fee is being charged to diesel. Is there a reason we're targeting diesel to pay for ethanol?

JAN TENBENSEL: Well, I will, I will let Ben really focus in on all that.

KAUTH: And then Section 4, and do you want me to let--

JAN TENBENSEL: Why don't you-- let's, let's have Ben talk about it.

KAUTH: OK. OK.

JAN TENBENSEL: I'm not familiar enough with the section.

KAUTH: Somebody just got thrown under the bus.

JAN TENBENSEL: Sorry about that.

KAUTH: Thank you.

JAN TENBENSEL: Well, thank you guys so much.

DeKAY: Any other questions?

IBACH: I have one.

DeKAY: Senator Ibach.

IBACH: Sorry, I'm not going to let you off the hook that easy.

JAN TENBENSEL: That's all right.

IBACH: I'm looking at fiscal note, but I will ask Dawn those questions. I just want to compliment you. I'm reading the overview. I want to compliment you for adding two additional ethanol producer seats to the board. I think you've done a really good job with having diversity as far as regions, expertise. And, and I think it really does reflect current industry representation expertise. I just want to compliment you on that because not all boards are thoughtful enough to know that they need to update periodically. And so I think you and I'm sure Dawn's helped with guide a lot of those decisions, but I think that's, I think that's really modernizing and updating and improving.

JAN TENBENSEL: Well, thank you. We want to make sure that we draw from all, all areas and, and we've been working on this for a couple of years, so.

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IBACH: Yeah. Thank you. Congratulations.

JAN TENBENSEL: Thank you so much.

DeKAY: Any other questions? Seeing none, thank you. Next proponent.

BEN RHODES: Good afternoon, Chairman DeKay and members of the Ag Committee. My name is Ben Rhodes, that's B-e-n R-h-o-d-e-s, and I'm the Executive Director of the Nebraska Ethanol Board as Jan mentioned, here today in firm support of LB815, which modernizes our mission structure and funding. Today, the ethanol industry in Nebraska is maturing, but it is innovating at a rapid pace, as Jan touched on. This presents us today with an opportunity, which is that we should once again change with the market, cleaning up outdated language, some that Senator Hansen indicated, and modernizing our mission to reflect all the exciting developments occurring in ethanol. LB815 does exactly that. Furthermore, we did work closely with industry to add ethanol producer voices to our award. As mentioned, I will cover the funding component of our bill in great detail here. So to understand what LB815 changes, it's useful to know how we're currently funded, which Jan also touched on in Senator Raybould's question. The two revenue streams that currently fund us are the transfer on nonroad or on-farm motor fuels, which is-- targets the ag producers and, historically, target the ag producers, and the excise tax on denature, which is assessed on the ethanol producers themselves as they utilize the denature to render ethanol unfit for human consumption. The challenges we face today is that on-farm motor fuel use has declined significantly. Today, those refund transfers form only less than 5% of our annual revenues. Meanwhile, inflation has risen significantly in the last 15 years. Our purchasing power has declined over 40% since 2008. To replace those lost funds, mitigate the effects of inflation, and ensure long-term funding for us, LB815 does four things. Number one, it eliminates those nonroad motor fuel refund transfers entirely. As I said, those funds are now pretty much negligible for us. Number two, it eliminates the current three-tenths of a cent per gallon dyed diesel fee that remits to the Petroleum Release Fund or the PRF, OK? The PRF is currently funded through identical fees of three-tenths of a cent of both dyed and undyed diesel that is off-road and on-road diesel. The reason why this makes sense to Senator Kauth's question earlier, why tax diesel is because farmers utilize diesel and utilize dyed diesel on the farm. We would reinvest those dollars in ethanol which benefits the farmers. Step three, after eliminating that fee, we implement a quarter of a cent per gallon fee on dyed diesel remitting to our fund, targeting that same historic stakeholder base of farmers

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while simultaneously cutting their taxes. This is not a fee increase, it is a shift and a decrease. The current fee is three-tenths, this bill moves it to a quarter of a cent. That net tax cut of .0005 per \$1 per gallon will save Nebraska's farmers over \$100,000 a year in taxes. That's in perpetuity. Meanwhile, step four, to maintain full funding of the Petroleum Release Fund, which is administered by the Department of Water, Energy, and Environment, they've requested that we set the on-road diesel fee at six-tenths of a cent per gallon. The reason this works is because annual gallon consumption of dyed and undyed diesel in Nebraska is very similar, within a few percentage points every year. The net result of all these changes is that farmers save money, we have sustainable funding, the PRF remains healthy, and the state, and the state of Nebraska shows a strong, clear investment in value-added agriculture both now and for years to come. Everything we would do with the funds would seek to develop the ethanol industry further as it continues to evolve and grow, and LB815 lets us do that in the most effective manner possible. That's why this bill makes perfect sense. OK? It takes farmer dollars, which are currently being used to clean up oil spills farmers do not cause, and instead reinvests them in an industry that actually benefits them, namely ethanol. The ethanol industry sits at the center of many other industries, and we believe this bill represents a rising [INAUDIBLE] approach as we emphasize effective utilization of Nebraskans' tax dollars. Supporting this bill means supporting our state and the agricultural industries that form the bedrock of its economy. LB815 is a forward-thinking piece of legislation with a massive benefit for our state. It is unquestionably good for our state both now and well into the future, and I'd be glad to take any questions, including on the funding portion, which is on the back side of that handout that I gave you. The current and proposed funds are all side by side.

DeKAY: Thank you. Are there any questions? Senator Kauth.

KAUTH: Thank you, Chair DeKay. So on Section 4, declaring this the public policy of the state, this, this seems like it's putting a lot in statute that might hamstring us later on. Can you explain this section to me?

BEN RHODES: Well, you see [INAUDIBLE] is crossed out there. A lot of this is simply updating what used to be, you know, [INAUDIBLE] is archaic in some sense. I don't think it hampers us. In fact, as you heard from Jan, there's so many new opportunities. We want to be able to capture all of it. This leaves us plenty of new avenues to consider

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all the opportunities that are out there for Nebraska. This allows the NEB to capture and create those opportunities for Nebraska.

KAUTH: So essentially-- I mean, we had some of this language there.

BEN RHODES: Right.

KAUTH: So you-- which language was actually changed?

BEN RHODES: That section specifically?

KAUTH: Yeah.

BEN RHODES: I mean, we just added a couple of new things that are on the horizon.

KAUTH: OK.

BEN RHODES: Ethanol and ethanol coproducts and products derived from those, which were not markets 35 years ago when these statutes were written. There's so many new things that have changed that we want to be able to capture and create those moving forward.

KAUTH: OK.

BEN RHODES: But it's a good question. Thank you.

DeKAY: Senator Storm.

STORM: Thank you. Thank you for testifying. So right now dyed diesel pays no taxes, right?

BEN RHODES: They do, they, they do currently pay a three-tenths of a cent into the Petroleum Release Fund.

STORM: So they do pay some tax?

BEN RHODES: They do pay. Yes.

STORM: OK, because I'm trying to understand why this is a tax increase.

BEN RHODES: It's not a tax increase. It's currently three-tenths of a cent. We move it to a quarter cent, which is less.

STORM: So we're lowering the tax on--

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BEN RHODES: Lowering the tax on farmers, correct, and any other users of dyed diesel.

STORM: OK.

BEN RHODES: Yes.

DeKAY: Senator Hansen.

HANSEN: OK. You're basically getting rid of a tax or fee from one item, moving it to a different item--

BEN RHODES: Shifting it.

HANSEN: --to have more people use, but lowering the tax on that. So, technically, it's not really, in fact, a decrease, you're just taxing a larger thing at a lower rate.

BEN RHODES: We're taxing-- it's a decrease on that specific fee, absolutely, on dyed diesel.

HANSEN: Were you charging any on dyed diesel before?

BEN RHODES: No. Well, the-- just-- the PRF was, but we were not.

HANSEN: Yeah, so you're charging a fee on something you weren't before.

BEN RHODES: Correct. Right.

HANSEN: OK. All right. So--

BEN RHODES: That, that fee is a decrease.

HANSEN: --[INAUDIBLE].

BEN RHODES: Well, it's a tax decrease on that specific--

HANSEN: On a new tax on something you didn't tax before.

BEN RHODES: Right.

HANSEN: OK.

BEN RHODES: Yeah.

HANSEN: And I'm going to go back to what Senator Kauth said.

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BEN RHODES: Sure.

HANSEN: Why do we even have to have that statute?

BEN RHODES: That, that Section 4?

HANSEN: Yes: It is hereby declared to be the public policy of the state of Nebraska to safeguard the health. Like, do we need that in there? Like, I, I understand it's, like, OK, we believe in ethanol, it's, it's, it's one of the core products of our state. We want to get behind it and that kind of stuff. But [INAUDIBLE]-- if that-- maybe, like, OK, so, I don't know, why do we even have to have that?

BEN RHODES: Well, because in our statutes currently there is a similar section--

HANSEN: Yeah, [INAUDIBLE].

BEN RHODES: --and we're expanding it to update it and modernize it.

HANSEN: OK. But if, if we got rid of that, would that affect anything of what, what you're trying to accomplish?

BEN RHODES: I mean, I guess not necessarily.

HANSEN: OK. Just curious. OK. Thanks.

BEN RHODES: But we do appreciate the, the policy statement on that, that section.

DeKAY: Any other questions? Senator Raybould.

RAYBOULD: So I just happened to look at the fiscal note, could you help us understand what would some of the expenditures be? It was 137--

BEN RHODES: So those are not ours, those are from Department of Revenue. They want to-- they, they claim they would need to hire a full-time [INAUDIBLE] or two to implement these changes. That was not our part of the fiscal note.

RAYBOULD: So do you disagree with the need for hiring?

BEN RHODES: I don't work for the Department of Revenue, I won't speak on their behalf [INAUDIBLE].

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RAYBOULD: OK.

DeKAY: Any other questions?

RAYBOULD: Thank you.

DeKAY: Seeing none, thank you.

BEN RHODES: Thank you, Senator.

DeKAY: Next proponent.

RANDY GARD: Good afternoon, Chairman DeKay and members of the Ag Committee. My name is Randy Gard, R-a-n-d-y G-a-r-d. I am currently the Chief Operating Officer at Bosselman Enterprises in Grand Island, Nebraska. I'm also the secretary of the Nebraska Ethanol Board. As a fuel retailer myself, I know firsthand how important renewable fuels are to Nebraska and how important the Ethanol Board has been to expand the industry over the past 50-plus years. Through our pump and pantry convenience store locations, we sell millions of gallons of ethanol based product per year with benefits-- that benefits both us and our customers. LB815 represents a terrific new use for fuel taxes, which should go wherever they can be utilized for the betterment of Nebraska. From the fuel retailer perspective, this bill is absolutely-- is great, is great use. As you can find, LB815 uses Nebraska fuel taxes to invest in the majority Nebraska produced fuel, which is cleaner, cheaper, homegrown fuel that supports the farmers, not to mention saves consumers money. Furthermore, the Ethanol Board is looking at research projects that would allow ethanol to be blended into diesel, which a huge market opportunity. So LB815 is a perfect use of funds in both principle and practice. Now, I'm going to go off script. So what does all that-- Nebraska is the only state that has a government agency focused on the production and consumption of ethanol. Pure and simple. And that's what the majority of the goal and the emphasis is. Now, I can tell you, as a fuel retailer dating clear back to 2016, where Bosselman Enterprises looked at, you know, what is the next fuel that can benefit our consumers and our customers, and it was clear that E15 was a marvelous opportunity to save the consumers and 2.1, give or take, million people in this state money. And so if you look at-- so we went down this path of adding blender pumps, underground storage tanks, everything we do so that we can take blended fuel E10, E15, E20, E30, E85 and allow the consumers the opportunity to choose which product they want to put in their vehicle. And what happened with that is because of the Ethanol Board's ability

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to help us as a, as a retailer put the right message on, put the right warning labels on, help understand the blending and RIN economics, which stands for renewable fuel or Renewable Identification Number, which is a really deep subject on ethanol and tax credits and everything else, we were able to convert our stations to selling blended or higher blended fuel. And if you think through that, last year alone, we sold higher blended, just E15, over 10 million gallons. But back in 2016, we didn't sell a single gallon. And if look at that, that has saved the Nebraska folks who buy fuel from us 500,000 bucks, which allows that money to be spent a different way at their choosing. And so what I like about being a part of the Nebraska Ethanol Board and being a retailer is the ability to have an organization help us figure out how to do all these extremely complex things like blending higher fuels, understanding that the next big step is going to be probably E30, which, quite frankly, we consider to be the perfect fuel for consumer in terms of cost and fuel economy. So when you put all this together--

DeKAY: Sir, your red light is on. Could you wrap it up in one or two short sentences.

RANDY GARD: No, I'm fine. I'm getting, getting on the soapbox here, but I'll take any questions if you have any.

DeKAY: OK. Any questions? Senator Raybould.

RAYBOULD: Thank you. I'm, I'm still trying to get my, my brain around some of the fee increases on, it looks like it's on regular diesel going from 3 cents to 6 cents. And so the question that I asked before, who are the users of that diesel, besides, you know, farm equipment, could it be the trucking industry as well that would be subject to that increase?

RANDY GARD: Well, there's two types of diesel, there's--

RAYBOULD: This is regular diesel.

RANDY GARD: OK. You're talking on-highway diesel?

RAYBOULD: It says, it says: while increasing the fee on regular diesel fuel from 3 cents to 6 cents per gallon.

RANDY GARD: 3 cents, 6 cents.

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RAYBOULD: 3 cents to 6 cents per gallon. I'm sorry, three-tenths to six-tenths.

RANDY GARD: OK, I'd have to defer back to, to Ben on that to [INAUDIBLE].

RAYBOULD: So I'm, I'm just trying to figure out who has to bear the-- who bears the brunt of this fee increase? What is the end user? Is it just a regular truck that transports products across the state and around the state?

RANDY GARD: To my understanding, it's red dye diesel, which is off-road.

RAYBOULD: Wait, I'm sorry, didn't hear that?

RANDY GARD: It's called red dye diesel, which is off-road diesel. So a truck going down the interstate uses traditional on-road diesel which has a different tax structure than red dye diesel, which is off-road for, you know, farm equipment and those types of things.

RAYBOULD: So which one is regular diesel?

RANDY GARD: On highway.

RAYBOULD: On highway.

RANDY GARD: It's my understanding, unless--

RAYBOULD: That's, that's where it says that is what the increase from three-tenths to six-tenths.

BEN RHODES: [INAUDIBLE]

DeKAY: No. No.

RAYBOULD: It's in the fiscal note, so. That's, that's-- yeah. Thank you.

RANDY GARD: You bet.

DeKAY: Any other questions? Senator Meyer.

RANDY GARD: Yes.

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F. MEYER: This is expanding the discussion about ethanol as you go from E10 to E15 to E30, and I don't know if there's scientific data yet, but I'm sure you have a pretty good idea. What-- what's the difference in mileage between E10 and E30?

RANDY GARD: Well, if you take, if you take steps, E10, E15, there's virtually no difference.

F. MEYER: Yes, that's--

RANDY GARD: We're in the second round of studying an E30 in non-flex fuel vehicles, which is any vehicle from 2001 and newer. And it's, it's negligible difference. I wouldn't even say it's some tenth of a mile per gallon. It's virtually nonexistent. Once you get past E30, then you start to see, you know, the, the cost versus the fuel economy start to drop off, drop off a little quicker. But, initially, our studies are showing, as I call it, it's E30 is the perfect fuel in terms of fuel economy and the actual cost of the product to the consumer.

F. MEYER: And now the difference between E-- E15 and E30 is a dime, 10 cents?

RANDY GARD: You're going to be pushed somewhere between 10 and 15 cents, depending on the price of the ethanol and the value of the RIN, yeah.

F. MEYER: OK. Thank you.

DeKAY: Senator Kauth.

KAUTH: Thank you, Chair DeKay. So the undyed cost is increasing. It's doubling. Correct?

RANDY GARD: Undyed--

KAUTH: Undyed, it's going from 0.003 to 0.006. So they're going to get-- and it's PRF. What is PRF? Petroleum--

RANDY GARD: I'm going to put that back on him.

KAUTH: OK, so-- OK, but they're going to get twice as much money as they had then. And then the dyed is going to take a small haircut and get just slightly less. So this is a fee increase, a tax increase.

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RANDY GARD: I wouldn't call it that, but I'll-- you know, I'll defer that.

KAUTH: Well, it's more money that's being spent-- I mean, more, more money to spend to buy this product.

RANDY GARD: I think that how, how I look at it, just personally speaking, is that currently the Ethanol Board's funded, to Jan's testimony, between \$500,000 and \$600,000 a year based on a fee on the, the denaturant portion of a gallon of ethanol. Well, Nebraska is never going to be the leader in the consumption of, of, you know, ethanol-based gasoline with 2.1 million people, give or take a little bit in the state. So the majority of our ethanol is going to get exported. Now, there are countries, it could be-- 2 weeks ago, we were at a big meeting with all, all the government agencies in the state of Mexico about they want to jump directly to E15, but they don't necessarily need the denaturant. So if the vast majority of the ethanol that's produced in the state of Nebraska is going to be exported, it's probably going to E100 versus E98. So the funding mechanism on the 2% denaturant starts to go away, so the funding mechanisms for the Nebraska Ethanol Board starts and continues to decline. So it's almost like a self-fulfilling prophecy that the more ethanol we produce and the more demand for globally for ethanol the more we're going to export but less and less and less of that will have denaturant which causes the shortfall or the decline in the funding. So this is another way to fund that. Now, whether it's a tax increase or whatever I'll defer to Ben on that, but, I mean, in a purer sense, that's, that's the reason why we think going down this path is a better way to fund it, because there are significant amount of studies that need to be done at E30 and other, other things, you know, how does sustainable aviation fuel come into play? How do all of these other emerging technologies and the emerging and these new, you know, petroleum, not petroleum based, but these new renewable products that are on the horizon, somebody's got to help figure that out and figure out how that benefits Nebraska as a whole in the agricultural space. So I'm not sure I answered your question, but that's kind of where it, where it sits.

KAUTH: Wouldn't you just increase the denatured-- denaturant tax instead because that's, that's where you are getting the money from now, correct?

RANDY GARD: Yeah, I mean, you could, but the reality is, is that as you continue to produce more and more ethanol in the state, more and

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more of it, I don't have the scale or, or the mathematics in front of me, but you still in terms of, of what has to be done to really focus on these emerging uses of, of ethanol, the funding mechanism, even if you raise that and the amount is going to be exported, you still can't get the numerical.

KAUTH: OK. Thank you.

DeKAY: Thank you. Maybe just-- with the two different types of diesel, maybe a little clarity with that. There are two different, red and green diesel. Green diesel's highway use, red diesel's farm use, they're taxed differently. And to put it into context, I think you'll agree that using red diesel on a highway vehicle, those tanks can be dipped and be fined accordingly for using a cheaper tax fuel in highway use so puts constrictions on using a product that isn't set up for highway use and keeping it in the hands of farm implements and stuff like that. So on our farm ranch diesel pickups we have, we have to use green diesel, and our tractors, combines, windrowers, we can use red diesel. So just put a little clarity on what the use of those diesels are, would you agree?

RANDY GARD: Yes.

DeKAY: All right. Thank you.

RANDY GARD: Anything else?

DeKAY: Any other questions?

RAYBOULD: Was going to add further clarifications. According to AI, this helps me a lot, so AI says dyed farm-- dyed diesel is farm tractors, combines, bulldozers, excavators, forklifts, generators, and marine vessels, tax-exempt off-road vehicles. Undyed or clear involves passenger cars, trucks, SUVs, and commercial, commercial buses. It is fully taxed to fund road infrastructure and is available at standard commercial gas stations. So, basically, if I may, that I see that we are, we are increasing from three-tenths to six-tenths and the majority of the users are everyday Nebraskans on that rather than just those that are involved in farm production. So that helps clear up the, the differences that, you know, everyday users are going to be helping fund the, you know, Nebraska Ethanol Board. So that's kind of what I was trying to get my head around and appreciate AI giving me a little bit more clarity and, and clearer definition of who's going to be paying what and what are the primary vehicles that use this. So you

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may all have known that already. I'm a little bit slower to picking up on that, so thanks. Thanks for indulging me.

DeKAY: Any other questions? Thank you.

RANDY GARD: Thank you.

DeKAY: Next proponent.

DAWN CALDWELL: All right. Good afternoon Chairman DeKay and members of the Ag Committee. My name is Dawn Caldwell, D-a-w-n C-a-l-d-w-e-l-l, and I'm the Executive Director of Renewable Fuels Nebraska. I'm here today in support of LB815 alongside the following members of the Ag Leaders Working Group: Nebraska Corn Growers Association, Nebraska Farm Bureau, Nebraska Sorghum Association, Nebraska Soybean Association, Nebraska State Dairy Association, and Nebraska Wheat Growers Association. LB815 is a practical update that strengthens the Nebraska Ethanol Board by better aligning representation and funding with the realities of today's ethanol industry. Nebraska's ethanol producers pay into the system that funds the Nebraska Ethanol Board. They invest real dollars year after year to support promotion, market development, and research that grows the industry. Yet, today those producers do not have voting representation on the very Board responsible for deciding how those dollars are utilized. LB815 corrects that imbalance by ensuring ethanol producers have both a seat at the table and a meaningful vote when decisions are made about investments in their own industry. Regardless of the size of an individual producer's contribution, they deserve a voice in how their dollars are used. This reflects a principle that is well understood across Nebraska. Those who pay into a system should have representation in how it operates. In addition, LB815 modernizes the Board's structure and funding in a way that creates a more stable and reliable budget, allowing the Nebraska Ethanol Board to carry out meaningful and impactful work. The ethanol industry today operates in a far more complex environment than it did decades ago. Producers are competing in global markets, navigating new fuel pathways, and working to maintain Nebraska's leadership in renewable fuels. Meeting those challenges requires sufficient resources and informed decision-making from individuals who are deeply familiar with the industry and its day-to-day operations. Commodity representatives who have served on the Nebraska Ethanol Board over the years have played a critical role in building this industry. Corn, sorghum, wheat, and other ag groups provided essential leadership during ethanol's early growth and development in Nebraska. Their contribution helped establish the solid

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foundation the industry benefits from today, and that deserves recognition and appreciation. Building on that foundation, the ethanol industry has reached a stage where ethanol producers themselves are well positioned to directly represent their interests. Nebraska's ethanol producers are experienced managers, operators, major employers, and significant investors in this state. They understand the markets, the technology, the regulatory environment, and the challenges facing the industry because they work in it every day. LB815 reflects that growth. It does not replace or diminish the role of agriculture and ethanol success. Instead, it builds upon that partnership by recognizing that the industry has matured to a point where ethanol producers should have direct voting representation on the Board that oversees the dollars they contribute and the programs designed to grow their industry. Most importantly, LB815 recognizes the value ethanol producers bring not only to the Board but also to rural communities, farmers, and Nebraska's broader economy. Providing producers with voting representation strengthens accountability, improves transparency, and leads to better outcomes for the entire ethanol value chain. Thank you for your time and consideration. And I respectfully ask for your support of LB815. And I will try to answer some of the questions that I heard my name passed out before. Senator Meyer. Oh, sorry. Sorry.

DeKAY: Thanks for doing my job for me. She doesn't get any of my pay, so. Senator Meyer, go ahead.

F. MEYER: So thank you for being here today, Dawn.

DAWN CALDWELL: Yes.

F. MEYER: So Nebraska ethanol plant in '24 produced about 200 million gallons. And how many years ago-- I know at one time 100% of that was denatured. And as we're moving toward a little bit higher percentage of that all the time, to going not dena-- or plain, straight, straight ethanol. And that's kind of necessitated the increase of a few because it's measured different according to what the fees are paid, correct? So, so most of that-- so what, so what percentage is shipped out of Nebraska as straight ethanol, no, no, no denaturant?

DAWN CALDWELL: I would-- so I'm going to go back a couple of years. That was-- 2 years ago was when we shifted so that even if the plants do not utilize denaturant, they are now investing in the Ethanol Board. That, that legislation, I believe, was 2 years ago, and because it was increasing rapidly. And so to take a stab at a percentage on a

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given week, 15, but we also have plants moving toward food grain ethanol, which clearly is not going to have denaturant in it. We have different technologies, does it go into renewable chemicals, so it would never have denaturant in it, and those things are all happening, so then what leaves as undenatured is one percentage, but what gets utilized in other ways is a whole nother level of, of what the plants are doing today.

F. MEYER: So, so would you envision, and maybe one of the other fellows should answer this, but as we go down the road and we increase the amount of ethanol that we produce that's not used as road fuel, it looks like that's the trend, that other uses are being found for that.

DAWN CALDWELL: They do, though, in fact, invest in the ethanol.

F. MEYER: So are we going to have to change how we destructure again?

DAWN CALDWELL: We did that 2 years ago.

F. MEYER: Pardon?

DAWN CALDWELL: We did that 2 years ago.

F. MEYER: Oh, OK.

DAWN CALDWELL: They do invest.

F. MEYER: Thank you.

DAWN CALDWELL: Yes.

DeKAY: Thank you. Any other questions? Seeing none, thank you. Next proponent.

JOHN HANSEN: Mr. Chairman, members of the committee, good afternoon. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I am the President of Nebraska Farmers Union and also their Lobbyist. I've been working on ethanol issues since the early '70s, and so I was more than glad to pick up the Farmers Union's share of the advocacy. Farmers Union started advocating for the value added opportunity of, of what we called gasohole-- gasohol then in the mid 1940s. So if there's somebody out there that was doing it before that, I don't know who it was. But we worked closely with Senator Schmit to develop the public support necessary in order to get the bill that he brought on our behalf in 1971 into fruition. And it was looking at the future and

saying, based on agriculture, anytime that we can do value add, where we add value to what we already produce, own, or control, that there's a benefit to agriculture to do that. And that those kinds of markets are more reliable and they're more beneficial. And so I want to tell you that there was a steady stream of folks who said that this will never work in a million years. This is, this is just sort of a pie in the sky. This is, you know, good intentions, but it'll never work. And that some of the things to remember as we think about how it is that we grow utilization especially which part of this focus of this restructuring goes after which is where, where there's, in my opinion, a lot of potential is that we're the third largest corn producer in the country, we're the second largest ethanol producer in the country. 40%, right at 40% of our domestic utilization of corn goes through Nebraska Ethanol, that Nebraska Ethanol provides a very substantial economic benefit to our livestock industry which is one of the reasons why we're the top red meat producing state in the nation. And that all of this fits together very nicely. It's one of the things that we're doing in agriculture that works. And that if you look at it in the big picture nationally right now, we used to run in the \$25 to \$30 billion a year positive ag trade arena. We're now \$45 billion in the hole. We've never been in the whole at this rate ever before. So the WASDE report comes out a couple weeks ago and we take \$1 off the already below cost of production price of beans, we take 50 cents off the price of corn, which is also, according to USDA, 90 cents a bushel below the cost of production. Soybeans is \$1.70. This is the worst ag crisis that we have faced since the 1980s. We are desperately looking for opportunities to grow utilization of domestically produced biofuels, whether it's corn or whether it's soybeans. And so, to me, this fits into that appropriate response on the part of this body to send farmers some good news for a change that we are looking for ways to increase utilization of ethanol in our state. And with that, I'd be glad to end my testimony and answer any questions in the off chance that I was able to.

DeKAY: Senator Raybould.

RAYBOULD: Thank you, Mr. Hansen, for coming. I know we are all pretty mindful of what farmers have to go through and our ag producers in our state because we're on the Ag Committee, so we, we get an earful. But my question to you is, we know that sometimes farmers do get subsidization and assistance, and have you-- have any of the Nebraska farmers, producers of corn and soybeans received any federal funding recently from some of the tariffs from the current administration? I

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know that they had talked about a, a bailout of, like, \$14 billion. I don't know, have farmers seen any of that relief yet?

JOHN HANSEN: So that-- those-- the-- that particular funding program, that bridge program, is a total of \$12 billion, \$1 billion goes to specialty crops, \$11 billion goes to the 20 other crops. And based on the North Dakota-- University of North Dakota or North Dakota State, one of those two, they calculate the loss of market value from tariffs for soybeans this last year at \$44 billion and that mirrors the, the American Farm Bureau Federation's estimate as well, \$44 billion. So we're going to, we're going to use \$11 billion of federal dollars to plug a \$44 billion hole that was caused through man-made reasons, it was not even supply management or weather or any of the other variables in the buy-sell equation. So we're-- you know, the, the amount of money that we're sending out to agriculture is very much appreciated, but it's also very much needed. And we have a substantial number of farmers and ranchers that are not going to get their ag loans renewed between now and spring. We had, we had some last year, we're going to see a lot more this year and we can say that based on just the-- what we're experiencing at the Nebraska Rural Response Hotline. I look at that monthly data where the-- our foundation is the, the fiscal agent for the hotline so we suffer no illusions about why people are calling and what kind of shape they're in and we're gearing up to try to help do more one-on-one counseling for folks that are in trouble. So we're, we're not in a good spot in agriculture right now. We see some states, bankers are estimating that 30 to 40% of their loans will not be renewed. I've not seen one for Nebraska, but it's not good. So ethanol, biodiesel, these are, are self-help, pull yourself up by your bootstraps, kinds of programs that we can do ourselves to help grow demand and utilization. So if you look at Nebraska and you compare our, our per capita utilization of biofuels to Iowa or Minnesota or South Dakota, let's just say we have an opportunity for a lot of upside potential.

RAYBOULD: OK. Thank you.

DeKAY: Senator Ibach.

IBACH: Thank you, Mr. Chair. You know that I trust your expertise on most things, but I think you mentioned that Nebraska is number two in ethanol production. And I think we passed Iowa, and we're number one now.

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JOHN HANSEN: And I think that as well, but I hadn't seen it officially. And so being on the conservative side, I didn't want to get out in front of my skis, especially ahead of the Olympics.

IBACH: Well, I would never challenge your expertise for sure.

JOHN HANSEN: Well, you should.

IBACH: But I, I think that's one thing I can challenge you on. Thank you, Mr. Chair.

JOHN HANSEN: My grandfather said that an expert in his view was a [INAUDIBLE] 50 miles from home and he said in your case it's always a matter of mileage. I come from a tough audience.

DeKAY: Are there any other questions? Just to throw this out here real quick, we talked about-- a lot about value added products and stuff. So we're getting value added on the front end of corn coming into a plant. Is there any way there could be value added on the backside that would cut the cost of distillers going back out to the feed lots and so they're farmers? Just throwing that out there for-- might have a conversation later about that. But I would ask the committee if they would want to have Ben Rhodes come back to maybe clear up some of the tax funding mechanisms or let Senator Brandt talk about that in his closing? Are you guys OK with the tax funding-- the explanations? Are there any other proponents?

JOHN HANSEN: Thank you.

DeKAY: You'd be OK having him come back up?

HANSEN: I've got a question.

DeKAY: Senator Rhodes or Ben Rhodes, not Senator. I get my Ben's mixed up here. Senator Hansen.

BEN RHODES: Well, thanks for having me again. Happy taking more questions and help clarify some of the questions I've heard.

HANSEN: Yeah, I, I, I think I have one if you could?

BEN RHODES: Sure.

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HANSEN: So the petroleum-- what's the reason we're increasing the Petroleum Release Remedial Action Fund? Like, does, does ethanol benefit from that fund?

BEN RHODES: So the Petroleum Release Fund is currently funded through three different streams. One of them is at nine-tenths of a cent per gallon tax on just motor fuel, that's gasoline, that we all pay every time we fill up whether we know it or not. The other two streams are identical fees of three-tenths of a cent each on dyed and undyed diesel. Since we're getting rid of that dyed diesel portion, we need to refill it in the PRF. This was a request from DWEE, who administers the PRF. The net result of increasing the on-road diesel fee is the PRF stays the same as it was before, at about \$11.5 million a year. And you can see that at the bottom of that sheet, the net result of the changes for the total PRF.

HANSEN: OK. And remind me again-- actually-- OK, so it results-- technically, it meant tax increase, but mainly on the undyed, undyed diesel portion.

BEN RHODES: But on undyed. And the undyed, to Senator Raybould's question earlier, is on-road used mainly by trucking companies, not the average user, not the average Nebraskan, trucking companies are the vast majority of fuel in Nebraska. They are OK with this bill. I've spoken with them. So the off-road diesel used by the farmers and a couple of other groups as well.

RAYBOULD: So I know there was one email or online comment of opposition from the railroads.

BEN RHODES: Right.

RAYBOULD: So how, how does that impact them because they're going to be paying that increase?

BEN RHODES: So they're actually, they're actually going to be paying less, because they use dyed diesel, which is off-road. So their fee will be going from three-tenths to a quarter cent. Furthermore, we believe that since ethanol and rail are so closely tied, this bill actually benefits them. And we made that case to them as well. 70,000 rail cars a year of ethanol are transported in Nebraska.

RAYBOULD: But I guess-- but now they would be anticipated to fund, right?

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BEN RHODES: They'd be paying the quarter cent fee that would go to our fund, correct?

RAYBOULD: OK.

DeKAY: Senator-- go ahead Kauth-- Senator Kauth.

KAUTH: Thank you, Senator DeKay. OK, so, so the undyed, which is going to see a doubling in their tax,--

BEN RHODES: Correct.

KAUTH: --that is on-road diesel--

BEN RHODES: That is the trucking company.

KAUTH: So trucking company. So Werner, you talked to them and they said, yes, absolutely, we'll double--

BEN RHODES: I talked to the trucking association. Yeah.

KAUTH: OK. So they said, yes, they're OK with doubling the taxes, we pay for this.

BEN RHODES: I talked to the truckers and if they are here they can speak for themselves, but I talked to them.

KAUTH: OK, so-- and why-- again, I guess if, if ethanol is a mature industry, which you stated, or somebody, I don't know who said it, said ethanol is mature industry, why are-- is ethanol not paying that fee on their own? Why are you not taxing ethanol?

BEN RHODES: Ethanol is still paying. The un-- the denature of tax remains unchanged.

KAUTH: OK, right, but you said you need more money, so why wouldn't you increase the denaturing tax?

BEN RHODES: Because we spoke with the industry and they would prefer not to pay anymore. They are happy with where they are.

KAUTH: I'm sure they would prefer not to--

BEN RHODES: Right.

KAUTH: --they would prefer not to, that's why I, I--

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BEN RHODES: They like paying what they are, they don't want to pay more.

KAUTH: OK. And--

BEN RHODES: And the farmers used to fund us, we want to fund-- the farmers want to fund us again.

KAUTH: I'm sure truckers, though, would also like to not pay more. And I know independent truckers who, who are going to be paying more, not-- it's not just the big trucking companies.

BEN RHODES: Right.

KAUTH: So we're looking at doubling the taxes coming from them for this.

BEN RHODES: They can speak for themselves if they're here, yeah.

KAUTH: OK. I, I have concerns about that, about, about going and not paying for it yourself, because they just don't want to, but requesting that someone else in a totally different line paying for it.

BEN RHODES: Well, they wouldn't be paying us. They're paying into the Petroleum Release Fund.

KAUTH: OK, they-- they're paying it, but then how-- you guys are getting the money, because it's because you need the money. Correct?

BEN RHODES: On the undyed-- on the dyed diesel side, not the undyed. We don't get any undyed funds, the on-road trucker funds. None of those come to us.

KAUTH: So, so what is the PRF going to be doing with that money?

BEN RHODES: They clean up oil spills, which some of the trucking companies caused.

KAUTH: So they're getting double the amount of money to clean up oil spills, and it's not going to support the ethanol.

BEN RHODES: It's the same amount of money in the Petroleum Release Fund overall. It's \$11.5 million a year, that stays the same. So the PRF does not get any more money than they currently have.

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KAUTH: OK, so where does that extra money go?

BEN RHODES: It's-- we're removing some of the funding in the PRF and refilling it right back to where it wasn't before, essentially.

KAUTH: OK, so why does ethanol-- I, I, I guess-- I, I mean, I'm having trouble understanding where the ethanol gets-- I mean, why does the Ethanol Board need money from diesel?

BEN RHODES: Because the farmers historically were our vast majority funder for the first 40 years of our existence, that funding is declined because it was nonroad gasoline fuels which they don't use anymore, they use dyed diesel instead. They would like-- the farmers don't want to be paying to clean up oil spills, they'd rather fund us the way they always have via this new mechanism of dyed diesel. So it's the same stakeholder group, the farmers, in a new way.

KAUTH: But it's a different person who's paying the tax.

BEN RHODES: It's the same--

KAUTH: It's the truckers.

BEN RHODES: --well, on the other side, not us.

KAUTH: OK. I'm--

BEN RHODES: And, and both groups currently pay into the PRF to clarify.

KAUTH: I'll sit down and dig through this a little bit more.

BEN RHODES: OK.

DeKAY: Senator Meyer.

BEN RHODES: Yes, Senator.

F. MEYER: Just in conversation. I, I think there's some misconception here that you're talking 3 cents and 6 cents, it's three one-hundredths of a cent and six one-hundredths of a cent.

BEN RHODES: Three-tenths and six-tenths.

F. MEYER: So it's--

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BEN RHODES: It's very small.

F. MEYER: --very, very small. It's not 6 cents a gallon. It's--

KAUTH: No, right, but it's still a doubling.

F. MEYER: Yeah.

RAYBOULD: Yes.

F. MEYER: OK, yes. Thank you.

DeKAY: OK. Any further questions? Seeing none, I think that takes care of the proponents, but I'll ask one more time.

BEN RHODES: Thank you, Senator.

DeKAY: Any more proponents? Thank you. If not, our first opponent.

IBACH: Welcome.

MARK WHITEHEAD: [INAUDIBLE] not to be here. Did I lose, did I lose Senator DeKay already?

IBACH: You lost him, yes, you're, you're stuck with me.

MARK WHITEHEAD: Oh, my goodness. All right, I was going to say good afternoon, Senator DeKay, or Chairman DeKay and the Agriculture Committee. My name is Mark Whitehead. I am the owner of Whitehead Oil Company and past president of the Nebraska Petroleum Marketers and Convenience Store Association, also known as NPCA. I am also the past chairman of our national association as well, the Energy Marketers Association of America. I'm here to testify in opposition to LB815, specifically the provisions related to the new tax imposed on dyed diesel and the increase to the clear diesel on behalf of NPCA members. I also have been asked to convey the opposition for the Nebraska Grocery Industry Association and the Nebraska Chamber of Commerce. NPCA has had a long-standing policy that taxes and fees imposed on motor fuels should be used exclusively for transportation infrastructure and environmental cleanup. LB815 departs from that principle by creating new permanent tax on dyed diesel for the purposes unrelated to either of those. The Petroleum Release Remedial Action Fund, commonly known as LUST Fund or Leaking Underground Storage Tank Fund, was established in the late 1980s after the federal government required underground storage tank owners to demonstrate

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financial responsibility for potential releases. At that time, private insurance coverage for underground storage tanks was largely unavailable due to the widespread pre-existing contamination. The LUST Fund was created to provide a practical compliance mechanism while ensuring environmental protection. That purpose has not changed and the Nebraska Petroleum Marketers Association support of the ethanol industry and sell large volumes of ethanol blended fuels every day. Our members have made substantial investments to comply with the state policy including the 2023 requirement that retailers offer E15 statewide. We have been told that LB815 is needed to provide additional funding to promote Nebraska ethanol. However, ethanol promotion has already benefited significantly from fuel-related revenues. Over the past 20 years, approximately \$12 million has been transferred from the LUST Fund for ethanol-related purposes. In addition, \$13.3 million has be transferred to the General Fund. And over the life of the program, more than \$30 million has been diverted from the LUST Fund for, for things other than environmental cleanup. LB815 does not reform the LUST Fund or replace any existing tax. Instead, it adds new quarter cent tax per gallon and applies only on off-road diesel. The tax is layered on top of current law and applies to agriculture, construction, and railroads. Nearly half of all dyed diesel sold in Nebraska is consumed by the railroad industry alone. This represents a fundamental policy shift on off-road diesel tax on related infrastructure, environmental risk and fuel storage liability. Once that precedent is set, future increases become much easier. Finally, it's important to note that Nebraska already has a trade association, Nebraska Renewable Fuels Association by ethanol producers, whose mission is to promote and expand the ethanol markets. Just as Nebraska Petroleum Marketers Association is funded by its members to represent the petroleum marketers, ethanol promotion should remain the responsibility of the industry itself and not be funded through new tax on off-road fuel users.

DeKAY: Thank you.

MARK WHITEHEAD: Any questions?

DeKAY: Before we go any further, could you spell your name for the record?

MARK WHITEHEAD: Yes, M-a-r-k, Whitehead, W-h-i-t-e-h-e-a-d.

DeKAY: All right, thank you. Now, any questions? Senator Storm.

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STORM: Thank you. And thank you for being here. So I'll ask you the same question. Is this a tax increase in your opinion?

MARK WHITEHEAD: No question. Yes. It's-- it seems to me that it's, it's taking a new fee on dyed diesel to go towards the ethanol industry. Funds to be replaced by the-- to the LUST Fund seems to be coming from an increase in on-road diesel.

STORM: OK. Thanks.

DeKAY: Any other questions? Seeing none, thank you.

MARK WHITEHEAD: Thank you.

DeKAY: Next opponent. Seeing none, anybody testifying in a neutral capacity? Seeing none, Senator Brandt, you're welcome to close.

BRANDT: So we've got an industry in this state moving forward that's going to create methanol for ships, SAF for airplanes, and we are continuing to increase the amount of ethanol that we put into our fuel tanks. That's what Mr. tenBensel told you, and it's critical that we, we keep going with that. A lot of discussion on the taxes on this. I, as a Nebraska farmer and a consumer, am 100% on board paying a quarter cent, a quarter of a cent on every gallon of dyed diesel fuel. What is the price of dyed diesel fuel today? Anybody?

F. MEYER: 350.

BRANDT: OK, 350. There we go. So now it's going to be 350.25. And this is a method that allows agriculture to support an ag industry where we had the largest corn crop ever produced in Nebraska this year. When you drive around to our co-ops and you see those big yellow piles out there, and you know we have the smallest cattle herd in what, 50 years, 60 years, how am I going to get rid of this stuff? We're going to cook it. We're going to cook it into ethanol. 40% of the Nebraska corn crop goes into ethanol and the beautiful thing about that, Senator DeKay, is 17 pounds, whatever, 56 pounds in that bushel comes back as cattle feed. Great cattle feed, DDGs. So fiscal note-- yes, the Department of Revenue hung a supervisor in there to supervise this for \$130,000 as opposed to \$1.2 million raised on the out years, \$892,000 raised by this, this change. We did ask the trucking companies on the, on the increase from three-tenths to six-tenths, wholeheartedly support it. Why? Because most of the fuel spills that the PRF addresses in the state of Nebraska are from trucks. So they had no problem supporting that. What else we got here? Of the \$2.1

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billion produced in the state of Nebraska, internally we only use 90 million gallons. What a great export for the state of Nebraska. You know, here's something where one point-- well, really, two billion gallons goes out of state. And I don't know if everybody fully understood why we use denaturant in ethanol. And a lot of that, I think, goes back to prohibition. So they put gasoline in there so people didn't drink this. OK? In the United States, we have to denature. But what he was talking about on our export markets, Mexico, for example, wants no denaturant in there. They want 100% ethanol. Denaturant was funding a lot of the ethanol. Well, as we are doing a good job and selling more out of the country, we're using less denaturant, and this was the problem they were running into. Oh, what else? I don't know why the chamber would be opposed to an industry worth, oh, let me get my cheat sheet here, in Nebraska, the ethanol industry has a total economic impact of \$7 billion annually. The rail industry in Nebraska, Union Pacific, Burlington Northern, and all the others has \$6.5 billion annually. This is an industry bigger than the rail industry. And we're concerned about a very small tax increase here, as we should be. And we are going to be faced with the bill to give incentives to the rail industry in the millions of dollars on the floor. And I want everybody to keep that in mind going forward. This is something for agriculture and they-- we're coming in and asking us-- asking to let us support our own industry here and expand it. There's a, there's a lot of possibilities here. So with that, I guess I would stop and try and answer any questions anybody has on this. I've got some statistics here on some stuff that maybe could help answer some questions.

DeKAY: Are there any-- Senator Raybould.

RAYBOULD: So, Senator Brandt, you don't think the fiscal note for a, a full-time-- they said supervisor, what, what type of fiscal note would you peg on this bill?

BRANDT: We can follow up with them and see if this is really necessary.

RAYBOULD: And then you had a question, like why would the chamber oppose it or why would Nebraska Grocery Industry Association, because any of these additional fuel charges, they have a nice category called surcharges. Those are passed on to all the retailers, you know, trucks-- the trucking industry is huge. We all know that in our state of commerce of transporting goods throughout our state. And those

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costs, sadly, most of the time get passed on to the consumer, so. And also the chamber is really hung up on no new taxes, so.

BRANDT: Well, I, I would expect that, as a business person, all the charges would get passed on to the consumer. That's the nature of business in the United States. I don't know of many businesses that would eat that charge.

RAYBOULD: Well, this is a surcharge that is-- that we're-- that commerce outside of the ethanol industry is, is picking up the tab on. And, and I know Mr. Whitehead was pretty clear in saying that it should go towards road infrastructure. Historically, that is what it has gone towards. And so if we're going to kind of sequester it and push it over to the ethanol industry, well, they're-- you know, next year we might have someone else who would like to be considered a, a worthy recipient of some of these funds.

BRANDT: Yeah, I would say good luck.

RAYBOULD: Well, yeah, probably.

BRANDT: So when you look at the bottom side of the sheet on the back, it says right there, PRF currently gets \$11,500,000. Under this proposal, they get \$11,525,000. The change is that the increase of PRF on clear diesel to cover that three-tenths that the dyed diesel used to pay into the PRF and move the dyed diesel down to the AAFTF fund, and that's where your increase comes in. \$570,000, and now they have one point-- \$1,592,000, and that's the increase on this bill. And it's funded by the users of dyed diesel, predominantly agriculture, granted construction uses dyed diesel and the railroads use some also.

DeKAY: Any other questions? Before we end the hearing, the position comments for the hearing on LB815 are-- there were six letters of support-- proponents, one letter in opposition. That closes the hearing on LB815.

BRANDT: All right. Thank you.

DeKAY: Senator DeKay is ready to open.

IBACH: Sorry. Thank you for joining us today, Senator DeKay. You're up next. Would you go ahead and introduce LB894.

DeKAY: Thank you, Senator Ibach. I am Senator Barry DeKay, spelled B-a-r-r-y D-e-K-a-y, representing District 40, and I'm here today

introducing LB894. LB894 and LB895 to follow results from the Public Service Commission approaching me over the interim about updating the Commission's fee authority, partially supporting the PSC's implementation of the grain laws and make additional changes. A PSC witness to follow will be able to go into greater-- will be a greater expert in technical explanation of the bill. I will give an overview of the bill and the amendment I am offering for the committee's consideration. To start with, LB894 changes the grain dealership initial and annual license fee from a prescribed amount currently set at \$100 with a delegation authority to the PSC to set the fee within a statutory cap of \$1,500. The \$100 fee has been in place since 2015. This fee as well as the greenhouse warehouse licensing fees are placed in the General Fund. The agency requests a General Fund appropriation of which a portion is allocated to pay for the cost of implementing the grain laws. Currently, the grain dealer and warehouse fees only offset about 15% of the General Fund supporting the duties assigned to the PSC, and without periodic adjustment over time, this percentage will likely decline. Considering the budget situation we're facing this year and the uncertainty of continuing to increasingly rely on general funds in the future, I believe it is prudent and necessary to enable the PSC to diversify sources of funding, and to restore within reason the allocation costs between the taxpayers and the regulated public. Next, LB894 attempts to simplify the rules for sellers of grain to be eligible to claim against the dealer bond in the event of an insolvency or other event that would authorize the PSC to intervene and administratively adjudicate such claims. Currently, 75-905 provides that in order to preserve and perfect the claim, the seller must show that they demanded payment no, no later than 15 days after final delivery, that within 15 days of being paid, they attempted to negotiate the check or other payment instrument, and that if there had been no payment or the payment bounced, they notify the PSC within 15 days after that. Current law requires dealers to include a warning to sellers that discloses these requirements prominently on transaction documents. LB894 repeals 75-905 and adopts what is intended as a more intuitive rule where-- for a claim to be eligible. The seller merely needs to show that at the time of PSC's intervention there was an unpaid payment obligation due and owing. The bill would continue to exclude future payment obligations under the deferred price or payment contracts when the payment obligation has not matured. Additionally, the bill would require that dealers pay the-- for grain when a demand is made by the seller after the delivery is completed within 2 days and if no demand is made. That dealer tendered payment within 30 days of the date of final delivery. After the bill's introduction, I was

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approached by Nebraska Cooperative Council and other grain industry folks who had concerns with how LB894 was written. I have met with the PSC and industry representatives to collaborate on amendments that resolve these concerns and the amendment I have distributed is a result of those discussions. AM1953 addresses a concern that, as written, LB894 would disrupt normal marketing practices and force producers to accept payment within 30 days even if they were not ready to set up. Also the industry reps indicated that it would be difficult to meet that 2-day payment deadline. Also, the bill, as written, was not clear as to when the obligation to pay interest or-- on unpaid obligations began. The amendment restates that these provisions provide that the dealer has 10 days rather than 2 days after demand for payment is made along with the documentation that delivery has been completed to tender payment. The amendment also omits the 30-day deadline to pay if no demand is made and clarifies that interest would begin to accrue starting 30 days after the payment deadline under this section or specified in the contract. Additionally, the amendment provides that the fee authority provided in the bill does not become effective until July 1, 2027, and imposes a requirement that the PSC submit to the Legislature its plan for implementing the fee authority by December 1 of this year. A similar amendment will be offered regarding the fee authority contained in LB895. The intention is that PSC will consult with the industry next fall and report its intentions to the Legislature. This retains legislative oversight with the Legislature having the 2027 session to intervene if needed. I want to thank the Public Service Commission and its staff for their assistance and initiative, and I especially want to thank those in the grain industry who called potential problems to my attention and their willingness to work with me to come up with solutions. With that-- and will close and try to answer any questions.

IBACH: Thank you, Senator. Are there questions from the committee?
Senator Hansen.

HANSEN: This is establishing the fee on, on grain warehouse?

DeKAY: Grain dealers going to grain dealers, the LB895 will deal with the grain warehouse.

HANSEN: We have something. OK. So how, so how many grain dealers are we talking about, a whole lot?

DeKAY: They're substantial, yeah, throughout the state. So there's a lot, there's a lot of the grain dealers that do have multiple sites,

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but they're only-- their entities are only subject to that fee increase for the entity, not for each location.

HANSEN: OK. I'm just trying to-- because it's tough with the fiscal note because they don't give us any examples of how much, like, revenue is raised basically because the PSC could be determining how much we raise this by. So, currently, the way it is now, nothing's going to change. But they're having the ability to go from \$100 to, currently, is now to \$1,500?

DeKAY: Over-- with incremental steps. But if you take that in perspective, if you go directly to \$1,500, if you got a grain dealership that's dealing with, say, 2 million to 5 million bushels of corn, divide 5 million into \$1,500, that's what your fee increase would cost, add to the cost of a bushel of corn.

HANSEN: OK. And this is going to the General Fund?

DeKAY: Yes.

HANSEN: Can we just have it go to the Agricultural Alcohol Fuel Tax Fund?

DeKAY: That's a conversation for a different day, but--

HANSEN: Sounds like a good solution to me. All right. Thanks.

DeKAY: Thank you.

IBACH: Thank you, Senator Hansen. Senator Raybould.

RAYBOULD: So thank you so much, Senator DeKay. I just want to follow up on something Senator Hansen said, so make sure I'm clear. The PSC determines the fee, correct?

DeKAY: Yes.

RAYBOULD: And so-- and you said that they're graduated increases. Where is that in the bill?

DeKAY: They-- that's-- it's not-- it's probably-- they can answer how they will escalate those fees in incremental steps going forward. This does not-- the hope of it is it does not take it from \$100 to \$1,500. The plan is, in my mind, is that it goes in incremental steps from \$100 to \$1,500 over the next 10 to 15 years.

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RAYBOULD: OK.

DeKAY: And they can, they can give more clarity on what their plan is on how they want to execute that.

RAYBOULD: So when were they going to share that with us, what their plan is?

DeKAY: When--

IBACH: He's here.

DeKAY: --when the--

RAYBOULD: He's here. OK.

DeKAY: --next witness will come forward, he will probably have more explanation on that.

RAYBOULD: I see. I don't have my glasses on. OK. Great. OK, so-- and this goes into effect, you said, in 2027?

DeKAY: Yes.

RAYBOULD: OK. Thank you.

IBACH: Thank you, Senator Raybould. Other questions? Seeing none, will you close?

DeKAY: Yes.

IBACH: First proponent. Welcome.

DAN WATERMEIER: Good afternoon, Vice Chair Ibach, members of the committee. My name is Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r. I represent the Commission's first district and am here today on behalf of the Nebraska Public Service Commission to provide some testimony in support of LB894. I'd like to thank Senator DeKay for introducing this bill for us. We did approach him this summer, as he mentioned. The Commission has a long-standing history of supporting legislation that seeks to increase safeguards for Nebraska producers. This legislation gives our office additional measures to ensure grain dealers are subject to minimum state standards of accountability, financial integrity, and producer protections. As this committee is aware, there have been several recent failures and closures in the grain industry. While not all failures are preventable, this bill would further

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support the Commission's ability to catch failing grain dealers more quickly and mitigate the harmful effects on producers. Our office has prepared a handout outlining the proposed changes to LB894 and really what that is, it gives an example on the left side of where we stand today and the right side where we're going. This really is kind of complicated, it's in the weeds, so I suggested that we do this and I think it's a pretty good handout, but it doesn't tell the whole story. I'm sure there will be questions. Under current law, the Grain Dealer Act excludes warehouse licensees under certain conditions from this definition of a grain dealer. Thus, certain grain warehouses also conducting grain dealer activity are not required to identify the grain dealer side of its business. The first section of this bill removes this exemption from the Grain Dealer Act. To clarify, qualifying warehouses would not be required to hold multiple grain dealer licenses for their multiple warehouse locations, but all its locations could be covered under one single grain dealer license. The bill also revives the payment timelines grain dealers are required to adhere to if a demand for payment is made, and adds an interest penalty if grain dealers violate written payment agreements. This change strengthens the position of producers and offers increased protection against nonpayment. This bill also simplifies the process for determining who may access a grain dealer's security. The bill replaces the criteria under Nebraska statute 75-905 with a more intuitive and producer-friendly standard. This change helps ensure producers who are not required to-- ensure that producers are not required to navigate complicated statutory requirements to qualify under a grain dealer's security. Lastly, this bill gives the Commission flexibility to set the application fee for grain dealer licenses under the statute cap of \$1,500. The application fee is currently statutorily set at \$100 and has not been substantially changed since 2005. At that time, we've seen some surrounding states surpass our fee nearly tenfold. If given this authority, the Commission plans to approach any fee increases cautiously and collaboratively, only issuing any increases in fee gradually over many years. This does conclude my testimony, and thank you for your time. I'd be glad to try to answer any questions. I can start off with Senator Hansen's questions about the number of dealers in the state. We have around 120 dealers licensed in the state of Nebraska, and we're actually reviewing 6 more that are pending. There's 40-- well, I'll talk about the warehouses in the next bill.

IBACH: Thank you.

DAN WATERMEIER: Yeah.

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IBACH: Are there questions from the committee? Senator Kauth.

KAUTH: Thank you, Vice Chair Ibach. So if, if they have 120 dealers, and now instead of \$100, they're going to be charged \$1,500 each?

DAN WATERMEIER: Well, the \$1,500-- the reason I think we got into trouble with the \$100 is that it was 21 years ago. It hasn't been changed since. We probably failed to not come forward and ask for that statutory change. I'm not a big believer of putting [INAUDIBLE] in statutes because it does force the hand. Things get behind and it's just-- it's difficult to come and ask. What our intention is, and in the bill we're actually mandated to have a workshop this summer, which we intend to have one this summer, and then we'll have a hearing. We have to have hearing before we can ever raise any fees. We might go from \$100 to \$150 or maybe \$200. 2 years from now, we'll look at it again. At least we're not coming here in front of this committee, which I know you are the experts in it, but it's, I think, the reason for the agency is to allow those incremental changes. We have no reason to go to \$1,500.

KAUTH: So this is just, if it's in 10 to 12 years, all of a sudden you're at \$1,500, then you'd have to come back.

DAN WATERMEIER: Yeah.

KAUTH: But between now and whenever, you can raise it incrementally.

DAN WATERMEIER: Exactly. Right.

KAUTH: Thank you.

DAN WATERMEIER: But, also, to answer another question that came from, not for sure where it came from the floor, we have to send a report to this committee. I think it's December 1 of every year before the Legislature starts. So you'll understand who we had at our workshop, what we had in the hearing, and the justification for the fee increase.

KAUTH: Thank you.

IBACH: Senator Raybould.

RAYBOULD: Thank you, Commissioner Watermeier. Can you-- you mentioned in your remarks that our neighboring states charge tenfold, so does that mean they're charging \$1,000?

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DAN WATERMEIER: Yes.

RAYBOULD: OK.

DAN WATERMEIER: Yes.

RAYBOULD: All right. Thank you.

IBACH: Currently?

DAN WATERMEIER: Yeah.

IBACH: Thank you, Senator Raybould. Are there other questions from the committee? Senator Hansen.

HANSEN: I couldn't get my calculator fast enough.

DAN WATERMEIER: OK.

HANSEN: You got part of our questions because with the Ag Committee you only get, like, five bills a year so we have to ask a lot of questions.

DAN WATERMEIER: You've had a busy day already here, then.

HANSEN: So, really, even if you went from \$100 to \$1,500 on 120 dealers, how much is that?

DAN WATERMEIER: I haven't really figured it up. I mean--

HANSEN: OK, I missed a zero.

DAN WATERMEIER: And I, I think Senator DeKay had mentioned it goes in the General Fund. These are cash fees that we have in house, and I'm pretty sure-- I can have my fiscal people come up and make sure, I'm almost sure these are cash fees that stay in house at the Commission. They don't go to the General Fund.

HANSEN: I think it has [INAUDIBLE].

DAN WATERMEIER: Well, maybe it does. I'm-- I'll-- I could be wrong. I was thinking--

HANSEN: [INAUDIBLE]

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DAN WATERMEIER: OK. We have several cash funds and, and we do have some General Fund.

HANSEN: If it goes to the General Fund, it's, you know--

DAN WATERMEIER: Fair game.

HANSEN: It's like throwing a penny [INAUDIBLE]--

DAN WATERMEIER: Yes, it's fair game.

HANSEN: --and you can't find anything, you know,--

DAN WATERMEIER: I know.

HANSEN: --it's gone. So OK. All right. Thanks.

IBACH: Thank you, Senator Hansen.

DAN WATERMEIER: All right. Thank you.

IBACH: Are there other questions from the committee? Seeing none, thank you very much for coming.

DAN WATERMEIER: Absolutely.

IBACH: Are there other proponents? Proponents for LB894? Seeing none, are there any opponents for LB894? Seeing none, anyone in the neutral? Are you O?

ROCKY WEBER: O.

IBACH: Opponent. OK, we'll back up.

ROCKY WEBER: About as soft as O can be.

IBACH: Thank you, Rocky. Go ahead. Welcome.

ROCKY WEBER: Good afternoon, Senator Ibach, members of the Agriculture Committee. My name is Rocky, R-o-c-k-y, Weber, W-e-b-e-r. I'm the President and General Counsel of the Nebraska Cooperative Council, appearing today in very soft opposition to LB894 as it is written with the amendment that Senator DeKay has given to you today. That opposition-- if that amendment is adopted by the committee, that opposition does disappear. And I wanted to, first of all, start by thanking Senator DeKay, Rick Leonard from the committee, Terri Fritz

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from the Public Service Commission, the rest of the Public Service Commission staff, and Commissioner Dan Watermeier for working with us. After LB894 was introduced, we raised several concerns about the language in the bill and how the bill would actually affect the grain trade in Nebraska. And they worked with us and met with us, and spent time with us and amended the language and, and, and resolved those concerns. And that's what you see in AM1953 that is before you today. And so our membership, you know, we are farmer owned and so we watch out for our farmer owners as well as we are grain companies and we also hold dealer licenses. And then this will come up in the next bill as well, but some of our cooperatives are USDA licensed warehouses. Some are state licensed warehouses. Terri can probably correct me, but I think almost all of our warehouses whether they're state or USDA licenses currently also hold grain dealers licenses which allows them to buy and sell grain that it would necessarily bring into their own warehouse. So, so we do have a significant amount of the grain warehouse space in Nebraska that's cooperatively owned, and a number of the licenses are-- do belong to Nebraska Cooperative Council members. So our concern about the initial language, as Senator DeKay indicated, was that the grain trade itself is such that a 2-day time limit for paying producers upon demand would be kind of impossible to meet because some of that grain trade happens by third parties and third-party trucking companies, and by the time we can get proof of delivery before we can write a check, several days has sometimes passed. And so everybody is willing to, to talk and listen to that, and that's why we've now got a 10-day-- 10-business day payment period on this. The other provision that caused us some concern, which is new, is this interest provision that if grain isn't paid for by the time it's due, then interest would run. So first of all, this does not affect any contracts. The amendment as amended does not affect any contractual obligations between grain producers and grain dealers. It only affects when there's demand made, either according to a contract or if there's a cash sale of grain when a demand is made, then that 10 day starts to run until payment is due, and the interest starts to once that 30 day-- once that due date happens, then that interest starts to run on that past due payment. We felt it very important that the demands be written so that there's no dispute about when interest begins to run or when the due day was, that the demand be written, and, again, with proof of delivery so that we're not paying for grain that hasn't been delivered. And I think that that's really all my comments today. Again, our opposition goes away if the committee does adopt AM1593 [SIC] as it was presented to the committee, I think, today by Senator McKinney-- DeKay.

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IBACH: Thank you very much. Are there questions from the committee?
Senator Hansen.

HANSEN: Thank you. Who sets the interest?

ROCKY WEBER: The interest is the, is the statutory judgment rate. It's the same, it's the same rate that applies to district court judgments. If you have a judgment entered against you, it's a statutory rate and it varies according to the interest rate.

HANSEN: OK. So instead of-- in your opinion, instead of the revenue that's going to be garnered from this when-- if the PSC increases, instead of going to the General Fund, do you have, like, a recommendation on where else?

ROCKY WEBER: Well, at the risk of Senator-- or Commissioner Watermeier hitting me in the back of the head about funding because we had quite a debate about funding. Yeah, I, I think that, that these kinds of fees should go to support the activities of the Public Service Commission in regulating the companies paying the fees. That's why we're paying the fees. And so I do worry about General Fund on, on that. Now, our membership didn't throw up a big red flag and say go in and pound the table about General Fund, but, but we do have that, that concern.

HANSEN: It might be a conflict of interest to have the PSC increase fees to pay for their own. I don't know if you can do that or not.

ROCKY WEBER: Well, but all the agencies-- I mean, all the agencies look at what they're regulating and the Department of Agriculture does as well. It looks at what they're regulated and who they're regulating and says what does this cost us to send inspectors out and do these kinds of things? Then, you know, how do we recover some of these costs? And, certainly, you know, it's a state overall cost and things of that nature. You know, I will tell you that, that my memberships, when you say to them these fees haven't been raised since 2003, they all say, well, then obviously it needs to be raised. The Public Service Commission does have a good hearing process, a good notice of hearing process to the industry that they regulate, and so we do have a chance to be heard. I am, generally, more in favor of the Legislature setting fees from time to time, but-- and I'm looking at him because he's going to hit me in the back of the head if I don't say this correctly, the Public Service Commission of all the agencies has done a good job of making sure we get a chance to be heard. And if

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we think fees are, are not fair, they, they, they have in the past listened and I think in this process, I have reason to believe they will listen again.

HANSEN: I think it makes sense. You know, I think this is to be able to review the fee structure.

ROCKY WEBER: As long as there's a cap on here and, and when it gets to the \$1,500 there's a process to come back before the Legislature, I'm comfortable with.

HANSEN: I trust Dan, I trust the PSC, but if we didn't put a cap on it my constituents would probably send me nasty emails.

ROCKY WEBER: Yeah.

HANSEN: But, like, we're, we're taxing-- I don't want to say taxing, but, you know, technically, the, the grain industry.

ROCKY WEBER: Right.

HANSEN: I've always kind of been a proponent of whatever we tax, we try to then-- that tries to benefit the entity that we're taxing. I mean, tax the roads, the grain, the staff, you know, people, establishment. I don't know if there's some way we can direct this tax to set the General Fund towards the people we're taxing to help benefit them. [INAUDIBLE]

ROCKY WEBER: I am not-- yeah, I'm not an expert in govern-- of government funding and how these funds all work. I do know when I see General Fund and I do know that in, in my history of representing the Cooperative Council and, and appearing at numerous hearings over the years, I know, depending upon budget matters, general funds are sometimes rated and sometimes not, and so that's what causes me concern about that is whenever funds that our industry is paying-- get used for a different purpose other than to regulate us or do those things, that does cause some concern.

HANSEN: OK. Thank you. Appreciate it.

IBACH: Thank you, Senator Hansen. Other questions? I just appreciate you working together and coordinating.

ROCKY WEBER: Sure.

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IBACH: It works when it works.

ROCKY WEBER: Right.

IBACH: Thank you very much.

ROCKY WEBER: Thank you.

IBACH: Are there other opponents for LB894? Opponents? Seeing none, are there-- is there anyone here testifying in the neutral? Welcome again.

JOHN HANSEN: Madam Vice Chair, members of the committee, again, for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n, and I am still the President of Nebraska Farmers Union and our Lobbyist. On this particular bill, we have been trying to figure out whether we're, we're more-- whether we're closer to our friends at the Co-op Council or we're gently opposed, or whether we're at neutral. And a lot of it comes down to the amendments and whether or not the amendments address some of our concerns. But one of our concerns was the, the time frame that the, the number of days required was not doable. And so 10 days is 10 days the right-- that if average a ballpark, a guess, 10 days is where when I first read it, I thought would have been a better number. So if the amendment addresses that, and it seems to, that's-- you know, addresses one of our concerns. We appreciate the Public Service Commission making efforts to try to continue to protect the integrity of the marketplace for agriculture. And, of course, nobody needs to be put in a position where you sell all your product to a, a customer who then doesn't pay you, whether it's hay or grain or, or cattle. And I've, I've, I've certainly been in that position before as an ag supplier. It's, it's not a good position to be in, so I appreciate the Public Service Commission's track record and their commitment to trying to protect the interests of farmers. But I do want to-- a, a concern that we do have here, and it was brought up by our friend Rocky Weber, is a long-standing concern on Farmers Union's part, and that is that if we had our druthers, so I guess now is a good time to bring it up, is that if we had our druthers we would much prefer that the dollars that are raised would go back to the regulators and the Public Service Commission. And that that is you, you have a more clear relationship between the cost of the regulation fees. If you remember my rants from previous years, not a big fan of fees, because depending on how they get used, they end up really becoming really regressive for the folks who get regulated. In a lot of cases, that gets to be ag and ag suppliers. So

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if there's a public benefit and there's a public interest clearly delineated in the regulation then our view, we much prefer everybody chipping in, in order to be able to protect the public interest and so fees end up getting to be kind of heavy-handed and so in the case of, of my members when, when they figure out that the money that's raised goes into the General Fund, their immediate suspicion is, yeah, well they're out of money. So, so they're out of money so the regulation costs are going to be raised because they need money not because the regulation is needed or appropriate. So with that, I'd end my question-- my comments and answer any questions if I could.

IBACH: Thank you very much. Are there questions from the committee? Seeing none, thank you.

JOHN HANSEN: Thank you.

IBACH: Appreciate you being here. Other folks testifying in the neutral capacity? Seeing none, I would just add that for the record, while Senator DeKay comes back up, that we had no online comments at all. So that was easy. Welcome back, Senator DeKay.

DeKAY: Thank you. First, I've got to apologize for not knowing the rules committees that we had to ask a certain amount of questions no matter how many bills are offered up, so. Two things that this bill does clear up: number one, we're talking about fees. We put a statutory cap on \$1,500 so that we don't have to come back every year and ask for a fee-- incremental fee increase. This gives us a timeline to work through a number of years to reach that cap before we need to come back again. Second, the other part of this bill protects the producers that are selling a product to the grain dealers. And also gives the grain dealers time to work to pay producers on a demand basis. When it comes to deferred payments, they are not held responsible for those payments until that deferred payment on the contract is reached. So that should clear up a lot of problem-- a lot of questions about the timeline going from 2 to 10 days. We originally had 2 days and we worked with Cooperative Council to get it to 10 days to clear up the trucking mechanisms and other problems that might arise for them to receive that product at their locations. So giving them that, working with the timeline to get the check cashed within 15 days and then going back if the-- if a grain dealer is insolvent, it gives the PSC time to start-- gives them 15 days to start working within it again. So with that, that's what the amendment and the original bill are construed to do. So with that, I will try to answer any questions. Thank you.

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IBACH: Thank you. Are there questions? Senator Raybould.

RAYBOULD: Yes, thank you, Senator DeKay. Can you just clarify? Currently, the funds that are collected from the grain dealers, do they go to the PSC or do they go right to general funds?

DeKAY: I, I got to get clarification myself where those funds are going to go to. I think it goes to the PSC. I originally said general funds, but let me get complete clarity and I will get back to you on that.

RAYBOULD: Well, I'm, I'm going to read to you what Rick wrote in the memo, and I'm, I'm hoping maybe Rick can explain: The grain dealer license application and annual renewal fee currently prescribed in statute at \$100 was last changed by the Legislature in 2015. Both the dealer and warehouse license fees are currently placed in the General Fund. These fees currently offset under 15% of general funds appropriated to the PSC allocated to the PSC's grain programs. And so, Rick, what does that mean?

RICK LEONARD: Yeah, if you look actually on-- if I may chime in--

IBACH: Yes.

RICK LEONARD: --if you look actually on page 3 of the bill, line 15.

RAYBOULD: OK.

RICK LEONARD: They say to the General Fund.

RAYBOULD: So it's always been to the General Fund.

RICK LEONARD: Yeah.

RAYBOULD: OK. Thank you.

IBACH: Thank you, Senator Raybould. Are there other questions? Seeing none, thank you very much, Senator DeKay. We will-- that will close the hearing on LB894. We will now open the hearing on LB895. Welcome again.

DeKAY: Thank you again, Senator Ibach. I am Senator Barry DeKay, B-a-r-r-y D-e-K-a-y, representing District 40, and I'm here introducing LB895. LB895 is the second bill I brought in collaboration with the Public Service Commission. I will briefly go over the two

changes in the Grain Warehouse Act contained in the bill before I speak to the amendment as being distributed to you. Commissioner Watermeier will follow me with additional information about the purposes of the bill and the amendment. First, LB895 would replace a warehouse license of application fee for a current prescribed fee to statutory maximum with the authority to adjust the fee over time within a statutory cap. The fees in place now have remained unchanged since 2003. LB958 [SIC] would establish a statutory cap that fees could not exceed the 2025-26 rate charge for AMS service notice for federal warehouses with CCC storage agreement. Since our fees have been frozen for 23 years, the comparable federal fees have surpassed our fee four to five times. The federal fee schedule is a cap that we would not expect to reach that cap for some time. But the flexibility to adjust fees administratively periodically would allow the incremental adjustments from time to time rather than substantially when adjustments are put off for many years. As I mentioned with LB894, both grain dealer and grain warehouse license fees are placed in General Fund and together only offset just under 50% of general funds allocated to the PSC's grain activities. As this year has shown, the ability to rely on general funds for a growing share of costs of the program are uncertain. Secondly, LB895 removes the exemption of federally licensed warehouse from state licensure, although the bill would authorize the PSC to treat federally licensed warehouses as a distinct category and customize license fees and requirements, as well as a regulatory oversight. The amendment AM1954 before you makes a couple of important revisions to the licensure relationship contemplated. First, federal warehouses would be automatically licensed. In other words, would not require duplicate license fees or duplicate bonding and federal warehouses would need only to submit regulatory filing already provided by the USDA. Secondly, the amendment confines the regulatory oversight to be applied to the PSC and limits the PSC administrative interventions to those coordinated with the written consent of the USDA. Secondly, the amendment would delay the effective date of the new fee authority delegated in this bill to July 1, 2027, and require the PSC to submit a plan for implementing the new fee authority to the Legislature by December 1. It is intended that the PSC will sit down with the industry this upcoming interim to arrive at a common vision for implementing this bill, including how fees will be used to help underwrite the costs and arrive at a fair reasonable allocation cost of the Commission's grain programs. The amendment will allow the next legislative session for the Legislature to make adjustments if necessary. Again, I want to thank the members of the industry who brought concerns with the bill

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as written to, as written to my attention and for working with me in my office and the PSC to address these concerns. Thank you.

IBACH: Thank you, Senator DeKay. Are there questions from the committee? Seeing none, we will invite up the first proponent. Welcome back.

DAN WATERMEIER: Thank you for having me. All right, good afternoon, Vice Chair Ibach and members of the committee. My name is Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r. I represent the Commission's first district and I'm here today on behalf of the Nebraska Public Service Commission to provide testimony in support of LB895. And I'd like to thank Senator DeKay for introducing this bill. The Commission has a long-standing history of supporting legislation that seeks to increase safeguards for Nebraska producers. This legislation gives our office additional measures to ensure Nebraska warehouses are subject to minimum state standards of accountability, financial integrity, and producer protections. As this committee is aware, there have been several recent failures and closures in the grain industry. While not all failures are preventable, this bill would further support the Commission's ability to catch failing grain warehouses more quickly and mitigate the harmful effects on the producer. Under current law, the Nebraska Warehouse Act exempts warehouses holding a federal alliance-- a federal license issued by the USDA from state licensure. This bill would require all grain warehouses located in Nebraska, including those licensed under the United States Warehouse Act, to hold a state warehouse license. Although the Commission may currently have limited oversight over a federally licensed warehouse, if it also holds a state grain dealer license, our authority in that circumstance allows us to see only a part of that picture. We are able to evaluate the grain dealer's financial obligations, but we currently lack authority to measure grain held in a federically licensed warehouse to determine whether those obligations can be met. Conversely, while the USDA measures grain in federally licensed warehouses located in Nebraska, it does not evaluate whether the inventory is sufficient to satisfy the grain-- the licensees' grain dealer obligations under state law. Granting the Commission this dual licensure authority will allow us to see the full picture of a licensee's obligations and to share that information with our federal partners. As for the dual licensure application process under LB895, federally licensed warehouses would be automatically given a state license by the Commission. This bill limits the Commission's regulatory authority over such duly licensed warehouses by only allowing the Commission to require warehouses to submit regulatory filings already provided to or

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received from the USDA. The bill also prohibits the Commission from charging a fee for the additional state license. Accordingly, the Commission anticipates that any additional regulatory burden imposed on USDA licensed warehouses would be minimal. Furthermore, the bill prohibits the Commission from initiating administrative action against the state license of any duly licensed warehouse without the written consent of the USDA. By way of comparison, the Commission currently performs a similar cooperative oversight role in the railroad context to the Federal Railroad Administration. Federal law largely preempts state regulation of railroad safety. However, the FRA may delegate inspection and enforcement authority to qualified state agencies. Nebraska is not required to assume this role, but the Commission has chosen to do so in order to improve responsiveness and enhance safety outcomes. In that capacity, the Commission enforces federal standards, shares inspection data with the FRA, and acts as an on-the-ground partner, while ultimate regulatory authority remains with the federal agency. LB895 follows the same cooperative model. Dual licensure does not supplement or duplicate USDA oversight but instead allows the Commission to assist by ensuring state-level obligations are visible, coordinated, and aligned with federal requirements so that neither regulatory-- regulator is operating with only the picture-- part of the picture. Lastly, this bill gives the Commission flexibility to set application fees for grain warehouse licenses. The application fees are statutorily set and have not been substantially changed since 2003. In that time, we've seen the USDA's license fee surpass our fee nearly four times. If given this authority, the Commission plans to approach any fee increases cautiously and collaboratively, only issuing any increases in fees gradually over many years. This does conclude my testimony. Thank you for your time, and I would be happy to answer any questions that you may have.

IBACH: Thank you very much. Are there questions from the committee? Senator Kauth.

KAUTH: Thank you, Vice Chair Ibach. Mr. Watermeier, why-- I guess I'm, I'm struggling why you would also need a state license if we are-- it, it looks like we're growing government if we have duplication, and that it's not duplication but if we have a federal one already issued and then we ask for a state one.

DAN WATERMEIER: There's a, there's a gap in the fact that the USDA is admittedly saying that they are not looking at the grain dealer and the warehouse's financial obligations to satisfy claims. So what can happen is our hands are tied as far as a federal warehouse. We can't

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just go in and look at their financial position, we can't even measure grain bins. They may have a license and they have to have a license, a grain dealer license to operate in the state, but we are, we are really hamstrung as far as looking at the financials. And I'm really a little bit-- I have to be careful what I say here because of the Hansen-Mueller situation. We had an open docket that's been closed. We now have another open dock in that back because we're working with the administration of the bankruptcy court so I have to be very careful. But basically what happens is the USDA does not have the-- they have the authority but they have never used it and we think we could catch these businesses quicker.

KAUTH: So explain to me what the, the problem is. So the PSC, what is your role in making sure-- so you're making sure that the grain elevators have grain or I, I guess I'm not understanding.

DAN WATERMEIER: Both. Both. Let me just back up. So as far as clarifying, backing up to LB894 where that's strictly about a grain dealer. That's somebody who actually buys the product from somebody and may deliver it to their own warehouse or may deliver it to someplace else. The warehouse is strictly what's in-house in that grain house. And our USDA offers the licensure and the states offer licensures. And they can go to wherever they want. They can do whatever we want. But we've now discovered over the last 10, 15 years that when we go in to inspect a grain dealer license, that's basically fairly specific to their net worth, what they can-- what they have for backup and for net-- for equity. We look at a warehouse, we come in and look at what they actually have in-house, we'll measure bins. It's very time consuming. It's very elaborate. We measure bins, and we also look at the obligations that they have as far as whether they've hedged their grain, if anybody's in a bad position, good position. Our hands were really tired in the Hansen-Mueller situation because we couldn't look at the books. We just couldn't.

KAUTH: But what would you do with that information? Why would you need-- why would the PSC need to look at the books?

DAN WATERMEIER: It would actually help us to see ahead of time if there's somebody slipping. And in coordination with the USDA, who our agency spends a lot of time dealing with USDA, and I, I really don't want to put words in their mouth, they're not going to come here and say they're supporting this idea. They're begging us to do it. They're not-- they can't get it done.

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KAUTH: So, again, talk to me like I'm five,--

DAN WATERMEIER: Yeah.

KAUTH: --what, what do you need to know that for?

DAN WATERMEIER: Well, audited financial reports, for one thing, that we can't see because they are strictly at a federal warehouse. It's reports like that that we're not seeing.

KAUTH: So the PSC is responsible for making sure that every grain elevator is operating fully?

DAN WATERMEIER: Well, wholly, at least if they're in a bad position. We catch it on the grain dealer's side, if somebody's net worth is behind the eight ball, we'll see it. But that's usually the last place because the failures happen on the warehouse side and if they fall over to the grain dealer's side.

KAUTH: And what happens when you find it, when the PSC says, gosh, this grain elevator doesn't have what they need, what do you do then?

DAN WATERMEIER: Well, we can suspend licenses on the grain dealer's side, prevent them from taking in any more grain and that's unobligated with the knowing that they may be at-- a producer may be at risk of being able to be paid.

KAUTH: So because if they don't have the money, the producer who gives them the grain will not get their money.

DAN WATERMEIER: Correct.

KAUTH: OK. Thank you, that's what I was trying to find out.

IBACH: Thank you, Senator Kauth. Senator Hansen.

HANSEN: It's the issue that sometimes I have with not specifically laying out the fee increase that we're looking at changing instead of relying on something, and then your ability to go up to that amount, right, the cap. So-- but maybe you can just clarify what the fees-- not to exceed the fees established for applicable commodities in the '25-26 rates charged for the AMS Services notice of entities, the Commodity Credit Corporation agreements, as such notice existed on January 1, 2026. What does that mean? Like, how much are we talking about? Like, are you-- what are we going from, from what fee to what

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fee? That could mean-- the floor is explicit, we're going from \$100 to \$1,500.

DAN WATERMEIER: Right.

HANSEN: Here it's like this much to whatever this determines. Is it an annual, you know, assessment published by the Agricultural Marketing Service?

DAN WATERMEIER: It, it is annually. The licenses are issued on a 12-month basis depending on when they want-- got their license the first time. We always rotate it the next year. We can also go in and inspect anybody at will. If there's a grain issue and we have concerns about their, their positions, we can come in and inspect it. The fees are difficult to understand in the fact that every warehouse is so different, and it depends on their number of locations. Now, you can have a warehouse that may have one location. I'll just give you an example, because I looked this up this morning. Let's say an elevator has a 400,000 bushel capacity and in one spot. That's a \$200 fee for that warehouse fee. If he has 400,000 bushel in four spots for 100,000 bushel bins, I think it goes up to \$420, because we may have to have fixed costs in going out and looking at four different locations, which is going to cost us an awful lot more to look at.

HANSEN: OK, so what are these grain warehouses, what, what increase are they, are they expecting? Like, I, I don't know.

DAN WATERMEIER: Well, that's a good question, Senator. I'd have to get back to you what we're expecting, but we're going to do the same process we did in the grain dealer's license, have a workshop, we'll have, have to have a hearing, we have to notice it, and then we'll bring in all the outside of what we can. We just know we aren't-- it's just not covering the cost of what we, what we do in our business.

HANSEN: You know, I'm not too worried about that. I just wanted to make sure what-- I, I don't know what, what I'm, what I'm agreeing to here, right?

DAN WATERMEIER: Well, it is a little bit blue sky because we're going four times off of what the-- excuse me, we're going at whatever-- our cap is what the USDA statute is and that's going to be a moving target more than likely as well. It may very well go up tomorrow, so our-- we will automatically go up. Right now, we're about 25% of the USDA

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warehouse fees. And we'll-- before we raise anything, we'll have a workshop, we'll ask industry, we'll be asking questions.

HANSEN: OK.

DAN WATERMEIER: Yeah.

HANSEN: I got one more quick one.

IBACH: Go ahead.

HANSEN: I think it's the first page, line 22: to, to-- except to enforce this section, the Commission shall not take any administrative action against the warehouse as licensed under the federal United States Warehouse Act without the written consent of the USDA. Does that also include-- like, they have a dual license? Like, if they--

DAN WATERMEIER: Yes, that's because they have a dual license. The industry was somewhat concerned about us just preempting the feds. We really can't do anything without cooperating with the feds.

HANSEN: Well, do you need to put if they're licensed solely under, because if they have a dual license, technically they're licensed under it and you can't do any administrative action.

DAN WATERMEIER: Unless, unless we're notifying USDA or encouraged by USDA to have action on it. We could look at that language a little bit.

HANSEN: So if they have the state license-- if they have the state and the federal, you still have to contact the feds--

DAN WATERMEIER: Yes.

HANSEN: --before doing anything pertaining to the state license?

DAN WATERMEIER: No. The ones that are just strictly state licensed, we will keep that in-house.

HANSEN: Yep. Yep.

DAN WATERMEIER: But if there's somebody that's just a, a federal warehouse, they won't even have to come to us to ask for a license. We won't send them a fee. They will just automatically be licensed in the state of Nebraska. For that mechanism, for us to get the same

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reporting mechanisms that the federal warehouse is already sending to the USDA, we're going to, we're going to be able to see those reports.

HANSEN: OK. I'm just making sure the license-- the language that you have in here isn't going to prevent you from taking any administrative action that you might need to do if they have the federal license too.

DAN WATERMEIER: Bigger concern was that we would not do it on our own without checking the USDA, so we can check that license-- that language to make sure that it's what we really want.

HANSEN: All right. Thanks.

DAN WATERMEIER: Thank you.

IBACH: Thank you, Senator Hansen. Other questions? Seeing none, thank you for your testimony.

DAN WATERMEIER: Thank you, Senator.

IBACH: Other proponents? Seeing none, are there any opponents? Welcome again.

ROCKY WEBER: Thank you, Senator Ibach and members of the Agriculture Committee. My name is Rocky R-o-c-k-y, Weber, W-e-b-e-r. I'm the President and General Counsel of the Nebraska Cooperative Council appearing today in opposition to LB895 as drafted. I think Senator DeKay has offered and is offering to the committee AM1954, which if that is adopted by the committee, again, our opposition would go away. Although, I will say that our opposition to this is a harder swallow than on LB894. So this, this bill proposes for the first time, that I know of in Nebraska, that the Nebraska Public Service Commission take a regulatory stance on United States Department of Agriculture licensed warehouses. Approximately 25% of our members have USDA warehouse licenses. They have a USDA warehouse license and a Nebraska grain dealer's license. The rest of our, our cooperatives that have grain are state warehouse licenses with state grain dealer licenses. So about a quarter of our members, although some of our, two of our largest local members and one of our regional cooperatives that has several grain facilities in Nebraska are USDA licensed warehouses. When this bill first dropped, our concern was being duly regulated by two agencies over the same issue having to pay two costs, having to have two sets of audit reports, two sets of compliance, all of those kinds of things. Again, I'm going to thank Senator DeKay and Commissioner Watermeier, Rick Leonard, Terri Fritz, the Public Service

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Commission staff. After we raised significant issues about this, including constitutional preemption issues, we met, worked it out, talked it out. Our membership has, you know, come back to us and said, look, if all we have to do is share what we file with the USDA so that the Nebraska Public Service Commission knows what grain stocks we have in store, what our obligations are, what our security is, everything else, all we have to do is give them copies of that stuff, we do not object to them giving us a, a Nebraska warehouse license and letting them have this authority. And then if they see a problem, though, and this is one of the things that we requested that is in AM1953 [SIC], if they see a problem then they have to go through the USDA for enforcement activity to come and inspect, audit, and measure, do those kinds of things because those warehouses will remain primarily USDA warehouses. Whether or not this gives Nebraska regulators a better idea as to what is going on in any given warehouse in any given situation and would prevent a failure, I don't know. I can't say that it necessarily would. However, I will say that, that as, as we've, you know, worked on this bill, I appreciate the cooperation of the agency, Senator DeKay, and, and everybody that's been involved to work this out so that it is probably the least onerous type measure that we can take for the Public Service Commission to get some additional ability to look into things if they feel they need to without subjecting the industry to too much regulation. The one thing I will say about AM1953 [SIC] and one of the agreements was and the language as submitted to the Bill Drafter was that the Commission shall not charge a fee for duly licensed warehouses. Meaning, if I'm paying a USDA warehouse licensing fee, I would not have to pay a Nebraska fee under this. I don't think that language, as far as I can tell, in AM1953 [SIC], that language about not being charged the Nebraska license fee did not make it into this draft of the amendment. And so I would ask the committee to review that and just for the, for the record, in an earlier amendment, that language would have appeared-- sorry-- at the end of line 27 on page 4, I think, language about not charging a double licensing fee, because that was one of the concerns of our members, would, would be the paying of a, of a double licensing fee. The, the USDA licensing fees are considerably higher than the state licensing fees. And so that's one thing that they were very concerned about at first was having to pay a dual licensing fee and the agreement was that there would not be a dual fee. So with that, I'm happy to take any questions.

IBACH: Thank you very much. Are there questions? Senator Storm.

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STORM: Thank you. So let me try to understand this. So last bill was about charging it, you already pay \$100 fee. Is that correct?

ROCKY WEBER: On a grain-- for a grain dealer license, that's \$100, that's \$100, then there's a federal fee you pay, too. Well, if I'm a federally licensed warehouse, I will pay for my grain warehouse fee, which is something totally different from--

STORM: Right.

ROCKY WEBER: --a grain dealer fee and a grain dealer license.

STORM: And then this is a whole nother fee on top of that.

ROCKY WEBER: Well--

STORM: Correct?

ROCKY WEBER: Yeah. The amendment, I think, inadvertently left out the fact that no fee was supposed to be charged if you are a USDA licensed warehouse. No fee was supposed to be charged under the Warehouse Act of Nebraska to double up those fees. I, I-- I'm pretty sure that's what the agreement was and, and, and that that needs to be corrected.

STORM: So you could potentially be-- I'm just saying you can potentially pay three fees now, right?

ROCKY WEBER: Well, if, if, if, if the committee takes AM1954 as it's written,--

STORM: Right.

ROCKY WEBER: --yes, I could potentially pay--

STORM: Is all this money going into the General Fund?

ROCKY WEBER: I think as it's drafted, yes.

STORM: OK. So we're paying three fees now to try to supplement the general [INAUDIBLE].

ROCKY WEBER: But I think the-- I think it's actually two. The one fee is supposed to come out.

STORM: And the federal one would go to the federal.

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ROCKY WEBER: Right.

STORM: Right. So two would go [INAUDIBLE].

ROCKY WEBER: Right.

STORM: I'm trying to clarify that.

IBACH: Thank you, Senator.

F. MEYER: I guess I have a question. Perhaps you could clarify us, maybe a 60-second tutorial on what a federal warehouse license is in connection with the Commodity Credit Corporation. It's different than a state warehouse and I'm, I'm not sure the committee members are aware of the responsibility that goes with that.

ROCKY WEBER: So a USDA licensed warehouse that is also licensed to accept grain in certain USDA programs, although state licensed warehouses can accept Commodity Credit Corporation grain as well, where you get a CCC or a commodity credit loan on that. You know, the, the, the primary thing with the state license is there is a separate set of regulations in terms of getting the license, there's a separate inspecting authority, all of those kinds of things. And so where you see with the, the, the cooperative system has warehouses, is a lot of our largest cooperatives with, with warehouses in other states. They go to a USDA license, so they only have to deal with the one state licensure. And, and that's with our regional cooperative as well. And so that, that's primarily the reason. You don't see a lot of difference in terms of their security amounts, what they expect for, what they require for a daily position report, and those kinds of things. The, the, the federal warehouse license, the USDA license, like I said, is more expensive than the state license at this point. And so this does give-- this language does give the, the Public Service Commission the authority to go through a rate setting process and a hearing with the industry and everything and raise their fees up to what those USDA fees would be, which would be a significant rate. You're talking tens of thousands of dollars for a USDA license, and you're talking thousands of dollars for a Nebraska warehouse license.

F. MEYER: Yeah, but along with that, the responsibility for that license, say I haul 100,000 bushels into your elevator, I don't have room on my farm, and I don't want to sell it, I want to put a, a warehouse receipt on that, and then I can take that warehouse-- certified warehouse receipt to my farm service agency office and get a

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loan on that amount of grain to pay my operating loan at the bank. So that warehouse is then obligated to the Commodity Credit Corporation for the amount of that-- those bushels that have got to be there because I've taken a loan out on those bushels with the Commodity Credit Corporation. So there's a really high standard of responsibility when it comes to elevators and when they're storing grain and making sure those amounts are there, because there's a lot more writing on it than just, oh, yeah, if those bushels aren't there, if we took a few truck-- extra truckloads out, it's OK. That's not OK.

ROCKY WEBER: No.

F. MEYER: So the fees that we're talking about, they might stack onto each other, but when you're talking-- our little elevator in St. Paul, 4 million bushels times \$4 a bushel, \$16 million dollars, one-time inventory that they're responsible for paying. So when you talk about a \$500 fee, if that elevator can't come up with a \$500 fee to pay that, I don't want to do business there. So there has to be a, a level of responsibility to be able to make payment on every one of those bushels or Mr. Watermeier will come looking.

ROCKY WEBER: I agree, Senator, and most of my members would agree, too, that if you can't pay a \$1,500 dealer fee, you might rethink being in the grain dealer business.

F. MEYER: Yeah.

IBACH: Thank you, Senator Meyer. Senator Hansen.

HANSEN: Thank you. Senator Meyer is the epitome of not wanting to increase government control intervention. So if he agrees with more government [INAUDIBLE], you tend to listen to him.

F. MEYER: Responsibility.

HANSEN: Responsibility, there we go. So there are-- OK, so that's, that's-- I think that helps explain some things to maybe what you said, because I'm thinking if I'm a grain warehouse, and I have a USDA license, and I have a state license, I'm like, well, I have to get rid of the USDA license and pay less for the state one. But if they do that, they're not able to do certain things then, if they don't have the USDA license?

ROCKY WEBER: No, I, I, I think the state licensed warehouse really can, can warehouse--

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HANSEN: It can supplement the USDA.

ROCKY WEBER: --commodity credit grain, and, and they buy and sell grain just-- I don't notice any-- now there could be something I am missing here, but in my experience in, in representing them as their lawyer for several years, I've never noticed any difference in how a state licensed warehouse operates with the farmers as opposed to a USDA licensed warehouse.

HANSEN: And the USDA is OK with this?

ROCKY WEBER: Yeah.

HANSEN: Because they're losing money. Because-- well, this is great for Nebraska because then we get the fee for all the grain warehouses instead of the federal government. And the grain warehouses, there's less.

ROCKY WEBER: Well, you're-- OK, so if, if, if LB or if AM1954 is adopted by the committee with the change I've requested, you're only, you're only getting fees from the Nebraska licensed warehouses that only hold a Nebraska license as you are today.

HANSEN: Yeah, but you just said, like, the USDA license is tens of thousands of dollars.

ROCKY WEBER: Yes, but that gets, that gets paid to the federal government.

HANSEN: And the, and the state license is thousands of dollars.

ROCKY WEBER: And that gets paid to the Public Service Commission.

HANSEN: So why would anybody in their right mind keep the USDA license if they could have the state license instead?

ROCKY WEBER: Again, if you are-- if you have warehouses in multiple states, sometimes it's easier to, to, to deal with that. There's a number of different reasons why they've chosen-- I could go to each one of my co-ops that have a USDA license and I'd get a different set of answers as to why they'd chosen that license as opposed to a Nebraska license.

HANSEN: OK. Yeah. All right. Thank you.

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IBACH: Thank you very much. Other questions from the committee? Seeing none, thank you again.

ROCKY WEBER: Thank you.

IBACH: Any other opponents? Anyone in the neutral? Welcome back.

JOHN HANSEN: Madam Vice Chair, members of the committee, good afternoon again. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I am the President and the Lobbyist of the Nebraska Farmers Union, our state's second largest general farm organization. So, as I've marked up this bill and spent a bunch of time on it this morning, I've been all over the map. I've been from neutral to opposed to support, and so there's a lot of different issues for us running through this bill. And one is one that we raised in the previous bill, which is at the end of the day, the money gets paid back too for the regulatory fees goes back into the General Fund rather into the Public Service Commission. And so another issue and concern for us is that we don't want to create a system that is cumbersome and over relate-- overregulated and discourages competition. So we're a little bit concerned about kind of the turf here, and where it begins and where it ends, and what is actually needed in order to protect our farmers' interests in all of this. So we're a little concerned about that and, yet, we're also concerned that based on our work with USDA in a whole bunch of different venues that their ability to be able to do their jobs has, in our view, been adversely impacted by the over 20% reduction in force that they've had. And a lot of senior folks who knew what they were doing headed for the hills because of the resignations. And a lot of the folks that were moving up the ladder who were the next generation of leaders were in between rings on the ladder and so they were identified by DOGE and they were eliminated. So USDA does not have the, the regulatory strength that it usually has and so if they are short of help and they're trying to regulate elevator-- warehouses, the question has to be asked, are they, are they struggling a bit? Are they doing their job? Are they OK? You know, it varies from, from agency to agency and department to department based on, you know, just kind of the luck of the draw in a lot of cases. So-- but we did want to-- we've heard rumors looking on down the road, we've heard rumors that there might be some efforts on down the road to take a look and address the business of where it is at the fees to the Public Service Commission go. So we want to weigh in again on that and say we still think that that's an issue and we would still much prefer the money to come back to the Public Service Commission. I think that's more appropriate. I

think it's more-- it's an easier sell to farmers and ranchers who are paying and working with the local elevators and paying a part of the freight. So we would earmark that, thank the Public Service Commission for their ongoing efforts, thank Senator DeKay for bringing the bill and giving me the opportunity to practice testifying before the Nebraska Agriculture Committee.

IBACH: Thank you very much. Questions from the committee? Seeing none, thank you very much.

JOHN HANSEN: You bet. Thank you.

IBACH: Anyone else in the neutral? Testify in the neutral position? We'll invite Senator DeKay to come back up to close. In the meantime, I don't think we have any letters online of opposition or proponent. Welcome back.

DeKAY: Thank you. Just for clarity, these, these are two different issues: grain dealers and warehouse, there's two different types of fees. And that's how I'm working with PSC and Cooperative Council. We're going to have studies coming forward. I think we alleviated a lot of anxiety with the parties involved to get some clarity. And as far as where the fees go to, whether it's to the PSC or to the general funds, we will be-- I will have conversations with them. I think this has been practiced over the years so if there's a need or a want to direct those funds in a different direction we can address them in our future conversations with the meetings we have this following summer and going into the next legislative session. But with this I think we've increased fees at an incremental rate that is not going to put anybody out of business that clarifies it, protects producers, and with warehouse fees and also, as Senator Meyer has talked about, puts number of written bushels equivalent to the number of real bushels on hand so it brings those together so that they are equal and there's no discrepancy, who has or who does not have the bushels in capacity. So it keeps that positive going forward. And, also, with the fees that they-- like I say, it's incremental steps. They have not been adjusted, this will put a statutory cap. And they will, in the one bill, they showed the amount of fee increase. Like Senator Meyer said, if any of these fee increases are going to put any entity out of business or disrupt their business as usual practices, probably don't want to be doing business with that anyway. But with that, any questions that I could have I would refer to the PSC or the Cooperative Council because of ongoing litigation right now, so thank you.

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IBACH: Thank you, Senator. Other-- any follow-up questions for Senator DeKay? Seeing none, that will close our hearing on LB895. Thank you all for participating.