

Written testimony to the Senate Committee on Assessment and Taxation
Re: Kansas Senate Bill 8
Marc Kliewer

Chairwoman Tyson and Members of the Committee:

I appreciate this opportunity to provide my thoughts regarding Senate Bill 8. I am presenting my views solely from my perspective as a lawyer who has advised and represented numerous owners of grain storage and handling facilities and ethanol and ethanol co-product processing plants in *ad valorem* tax matters for over 20 years.

I represented the Dodge City Cooperative Exchange in its years-long efforts to be fairly taxed in accordance with Kansas law, and so I have an inside—and frankly jaundiced—view of how both the grain and ethanol industries have been singled out and taxed in contravention of Kansas law by having personal property improperly classified and taxed as real estate.

In the wake of the Dodge City Co-op v. Gray County decision issued by the Kansas Court of Appeals last summer, Senate Bill 8 is a positive step in the right direction; however, additional protections are needed to ensure fair treatment of two vital industries which support and advance the interests of Kansas farmers.

First, Senate Bill 8 as currently drafted grants county appraisers the discretionary power to waive penalties for taxpayers who file incomplete personal property renditions later than March 15 of the applicable tax year. This doesn't go far enough. County appraisers should be *required* to extend filing deadlines for a reasonable amount of time, and they should be *required* to waive penalties for "late" personal property rendition filings by grain and ethanol industry taxpayers that have been denied the benefits provided for by longstanding law and the Kansas Constitution.

Second, I respectfully ask that you amend the legislation to define "good cause" in Section 2(a) of the bill and "excusable neglect" in Section 2(c) of the bill and to specifically have those definitions protect owners and operators of grain elevators and ethanol processors from any penalties for failing to list elevator and ethanol plant machinery and equipment on their 2022 renditions. For years, grain elevator valuation worksheets provided by the state's Division of Property Valuation have specifically broken out and valued machinery and equipment, yet still treated it as if it were real estate. To now allow counties to potentially collect penalties from elevators and ethanol plants for failing to list items as personal property that **have already been illegally taxed as real property** is to reward counties for violating the rights of taxpayers. Likewise, instead of leaving the Board of Tax Appeals with discretion to waive penalties, it should be clearly and unequivocally mandated to waive penalties under the excusable neglect provisions of this legislation.

Thank you very much for your consideration.