



Association Of Ethanol Processors

DATE: February 20, 2013

TO: Senate Committee on Agriculture

FROM: Randy E. Stookey, Vice President and General Counsel
Kansas Association of Ethanol Processors (KAEP)

RE: Written Testimony in support of SB 168, regarding limiting nuisance actions against certain agricultural activities.

Chairman Kinzer and members of the Committee on Judiciary, thank you for allowing me the opportunity to testify in support of SB 168. The Kansas Association of Ethanol Processors (KAEP) represents the majority of ethanol processors in Kansas, which together produce nearly 500 million gallons of ethanol annually. Kansas' ethanol processing facilities bring millions of dollars of revenue and economic development to communities across Kansas.

For more than three decades, it has been the declared policy of the state of Kansas to protect and encourage the use of Kansas resources for the production of food and other agricultural products. In 1982, through the *Protection of farmland and agricultural activities act*, the Kansas legislature identified a growing trend of nonagricultural land use in historically agricultural areas which led to an increase in private nuisance suits. These suits often resulted in the estoppel or reduction of agricultural activities, directly harming rural Kansas economies and communities.

The act provides protection for agricultural activities from nuisance suits when the activities are conducted according to good agricultural practices and established prior to surrounding nonagricultural activities. Agricultural activities are presumed to be good agricultural practice when conducted in conformity with federal, state, and local laws and regulations, and do not adversely affect public health and safety.

The Kansas agricultural economy continues to expand as our agricultural activities grow and become more diverse. Unfortunately, we have continued to see nuisance suits brought against our members when conducting those activities. In furtherance of Kansas' policy to protect and encourage the use of Kansas resources, we join with the Kansas Department of Agriculture in fully supporting the proposed amendments set forth in SB 168, including the exclusive compensatory damages provision. We also support the amendment to the definition of "agricultural activity," to include activities related to the handling, storage and transportation of agricultural commodities.

We thank this Committee for the opportunity to share our comments. We would ask the Committee to pass SB 168 out of the committee favorably. Please feel free to contact me if you have any questions, at 785-220-5211.