

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson Jeff King at 10:30am on Tuesday, January 20, 2015, 346-S of the Capitol.

All members were present

Committee staff present:

Lauren Douglass, Legislative Research Department
Robert Allison-Gallimore, Legislative Research Department
Natalie Nelson, Legislative Research Department
Suzanne Nelson, Kansas Legislative Committee Assistant
Katherine Goyette, Office of Revisor of Statutes
Jason Thompson, Office of Revisor of Statutes

Conferees appearing before the Committee:

Mike Petersen, State Senator, Wichita, KS;
Marc Bennett, Sedgwick County, KS District Attorney;
Adrian Serene, KS Assistant Attorney General;
Kirk Thompson, Director, KS KBI;
Raynard Brown, CEO Advantage Metals Recycling (AMR);
Ed Klumpp, Associations of Chiefs of Police, Sheriffs and Peace Officers;
Kent Winter, Kansas Farm Bureau;
Dave Holthaus, Kansas Electric Cooperatives;
John Federico, Kansas Cable Telecommunications Association (KCTA);

Others in attendance:

[See Attached List](#)

Bill introductions

The Chair called the meeting to order at 10:30 am and asked for bill introductions or requests from the Committee and the audience.

Helen Pedigo, Legal Counsel, Supreme Court, requested:

- a measure directing fund transfers from the Electronic Filing Fee and Management Fund to the Docket Fee Fund;
- a measure providing a sunset extension to the Judicial Branch surcharge;
- a measure providing a sunset extension on the Judicial Branch DUI license reinstatement fees;
- a measure adding traffic fines to the group of items collectable through debt collection contracts with the Attorney General's office and would modify requirements relating to the state debt set-off program;
- a measure that would exempt restitution, court costs, fines, and fees from dormancy;
- a measure adding a surcharge fee to birth certificate amendments; and
- a measure expanding video conferencing use.

CONTINUATION SHEET

MINUTES of the Committee on Judiciary at 10:30am on Tuesday, January 20, 2015, 346-S of the Capitol.

There being no other bill requests from the Committee or audience, the Chair turned the Committee's attention to today's hearing.

Hearing on: SB11 Regulated scrap metal; crime of theft and related sentencing provisions; regulation of scrap metal dealers, including unlawful acts and penalties.

The Chair opened the hearing and called on Jason Thompson for an overview of the bill. Chair King added a few comments about the many hours of work that preceded this act and brought together participants from across the state and included broad interest stakeholders to solve issues that have been raised at least seven times previously and which resulted in the bill before the Committee today.

Senator Mike Petersen spoke in support of **SB11**. He related that the meeting in his county was well attended with over 100 stakeholders and citizens present, including religious leaders, contractors, scrap metal dealers, recyclers, law enforcement and members of the Judicial Council. Senator Petersen believes that this bill is a good balance between protection for citizens while prohibiting the law from becoming overly burdensome on our scrap metal dealers and recyclers.

[\(Attachment 1\)](#)

Marc Bennett testified in support of the bill. He related that the issue of metal theft and damage caused by the thieves is truly a statewide problem ranging in damages to utility transfer stations, loss of electric power, air conditioning units rendered useless, lost production and lower crop yields from damage to farmers' irrigation systems and copper urns from head stones stolen from cemeteries. An estimated \$1 million loss occurred over the course of several weeks in Cowley County. Mr. Bennett was confident that **SB11** provides the tools needed to begin to turn the tide against the thieves and in favor of Kansas' citizens. [\(Attachment 2\)](#)

Adrian Serene testified in support of **SB11**, which expands the definition of "regulated scrap metal" and "scrap metal dealer." The bill removes the local oversight of scrap metal dealers and replaces it with a statewide registration system to be administered by the attorney general. An enhanced crime of "Aggravated criminal damage to property" was created, along with new severity levels related to this crime. The attorney general would be required to create and maintain a database which would include the registration status of scrap metal dealers and records relating to the scrap metal transactions uploaded from the dealers. Costs of creating and maintaining the database will be offset by the scrap metal dealers' annual registration fees. [\(Attachment 3\)](#)

Kirk Thompson spoke in support of the bill. He complimented the process of the Scrap Metal Advisory Committee of the Judicial Council who gathered a large and diverse group of stakeholders from across the state and dug deeply into all aspects of the scrap metal theft problem. Mr. Thompson believes that the enhanced risk of arrest and prosecution for scrap metal theft will be a strong deterrent for those who might consider committing such an act. [\(Attachment 4\)](#)

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES of the Committee on Judiciary at 10:30am on Tuesday, January 20, 2015, 346-S of the Capitol.

Raynard Brown supported passage of the bill. His company, AMR, is the largest metal recycler in the state of Kansas, both in volume and number of locations. Mr. Brown believes that **SB11** is a comprehensive update to Kansas law and its effectiveness will be dependent upon the combined effects of the regulatory, law enforcement, prosecutorial and criminal penalties that are created in this bill. ([Attachment 5](#))

Ed Klumpp, representing three law enforcement associations, spoke to support passage of this bill. Mr. Klumpp highlighted a few of the good points of the bill including the central database, which will aid in investigating the crimes, assist in property recovery, and will also help to identify criminal patterns. ([Attachment 6](#))

Kent Winter spoke supporting **SB11** not only on his own behalf, but also for the 40,000 farmer and rancher members of the Kansas Farm Bureau. Mr. Winter related how difficult metal theft cases are to crack, particularly during cold-weather months when many thefts occur. There is less activity in the fields and farmers and ranchers have slowed down their operations for the winter. In the case of center pivots, wiring could be gone for months before it is missed. By then, the wiring could be already recycled or hauled to another state. ([Attachment 7](#))

Dave Holthaus spoke supporting favorable passage of **SB11** on behalf of the Kansas Electric Cooperatives. Over the past ten years, Kansas utilities have endured numerous thefts and collateral damage to substations, warehouses, vehicles, pole yards, distribution lines and appurtenances. He remarked that all electric utilities have safety as a core value and advocate it daily. Curtailing metal theft is important for the safety of the public, electric employees, and the reliability of the electrical system. ([Attachment 8](#))

John Federico also spoke supporting the favorable passage of **SB11** on behalf of the telecommunications providers offering video, telephony, and advanced broadband services in all four corners of the state, including Time Warner Cable, Cox Communications, Comcast, Eagle Communications, and CableOne, among others. Like other businesses, the cable companies have been plagued by the issues **SB11** addresses. The cost of repair and disruption of service to customers has become a significant industry-wide problem. Mr. Federico concluded by proposing an amendment on page 8, Subsection (b)(7) by asking that the words "*cable or video service facility*" be inserted after the words "telecommunication facility." ([Attachment 9](#))

The Chair called for any other proponents' testimony. Seeing none, he directed the Committee's attention to the written only proponent testimony as follows:

- Dale Goter on behalf of Captain Gavin Seller, Wichita Police Department, and City of Wichita ([Attachment 10](#))
- Whitney Damron for City of Topeka ([Attachment 11](#))
- Christy Molzen, Kansas Judicial Council ([Attachment 12](#))

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES of the Committee on Judiciary at 10:30am on Tuesday, January 20, 2015, 346-S of the Capitol.

- Ron Seeber, Associations of Grain and Feed ([Attachment 13](#))
- Melissa Wangemann, Kansas Association of Counties ([Attachment 14](#))

Chair King expressed his thanks to the Judicial Council and the members of the scrap metal advisory committee, in particular to Senator Mike O'Donnell for his contributions, Senator Petersen, District Attorney Bennett, and also Christy Molzen for the hundreds of hours she focused on this project. District Attorney Bennett, Mr. Brown, and Jason Thompson fielded questions pertaining to the provisions of the bill and application of its penalties from Senator Haley, Senator Bruce, Senator McGinn, and Senator Knox.

Following the discussion, Chair King asked for neutral or opponent testimony. Seeing none, he closed the hearing on **SB11**.

The meeting adjourned at 11:55am. The next scheduled meeting is Tuesday, January 21, 2015.