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**Testimony Regarding SB 219
Submitted by Marc Bennett, District Attorney
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Chairman Wilborn and Members of Senate Judiciary Committee, thank you for the opportunity to address SB 219.

In 2014, I began to be inundated by calls from citizens in Sedgwick County complaining of rampant metal theft. Restaurants and churches has copper stolen from their air conditioning units, rendering the unit inoperable; farmers had copper lines ripped from their central pivot irrigation, adversely affecting their yields—to name just a few.

After lengthy discussions and a working group organized through the judicial counsel, SB 11 was passed by the Kansas legislature in 2015. This plan called for the implementation of a database to gather information related to sales of scrap metal which would then be accessible to law enforcement. The money to stand this project up was to come from fees administered to scrap yards statewide. In return, municipalities and counties would no longer assess fees to these yards. The plan never got off the ground, as the collected fees were insufficient to pay for the database.

SB 219 proposes to change the fee structure to a tonnage fee passed on to the people and businesses bringing scrap to the yards. Legitimate concerns have been raised as to the effect of this proposal and whether this plan would simply push legitimate businesses to sell their scrap across state lines, thereby hurting scrap businesses in Kansas. To that end, I know that at least alternative plan will be suggested to SB 219, to set up a tiered annual yard fee based on the annual tonnage purchased.

My position is that we must decide this year what we are going to do about metal theft. The urgency of the concerns raised in 2014-2015 abated not because of any action on our part, but because prices went down. When process go up and the volume of theft takes a concurrent spike, will we have any plan in place?

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Scrap yards are unfortunately in the position of providing the only source of entry into the legitimate stream of commerce for (metal) thieves. This is not to suggest that scrap yards knowingly do business with thieves. I am also not suggesting that all yards buy from thieves, even unintentionally – but clearly some do, otherwise the thieves would simply be collecting paperweights. The thieves need a place to sell and the metal recycling industry is the only place for them to go.

Some vocal critics in the recycling industry argue that the entire legislative effort is unnecessary and that law enforcement simply needs to contact the local yards when a theft occurs. My response is simple: this counter proposal is no proposal at all. What incentive would a yard have to cooperate with law enforcement? If stolen metal is found, who would repay the yard for the money they paid? And for the yards that take every conceivable step to avoid interacting with metal thieves and double down on their effort to be good corporate citizens—how does it make any sense to believe they would rather take an employee off the yard/register/scales each time the cops come in or call, to spend valuable minutes (on the yard's dime) reviewing recent sales looking for the stolen material?

While we struggle to figure out who should pay for the database and enforcement mechanism, there are other small business, churches, farmers and ranchers whose businesses were hit very hard and will be hit again, when the price of metal goes back up. Our inaction has a consequence for them.

So, I believe the legislature has two choices: either come up with the money to pay for this effort from state sources, or abandon the effort entirely. If we are going to pursue the database, then the cost of the system will need to come from (1) the consumers who bring metal to the yards; (2) the yard owners themselves; or (3) the state resources.

Thank you for your time, attention and consideration in this matter.

Respectfully submitted,



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