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March 18, 2019

**Testimony Regarding SB 219
Submitted by Morgan Koon, Member of Allmetal Recycling, LLC**

Honorable Chairman Wilborn and Members of the Senate Judiciary Committee:

Allmetal Recycling, LLC (“Allmetal” or “We” or “we”) appreciates the opportunity to address you regarding Senate Bill 2019. Allmetal opposes Senate Bill 219 (“SB 219”).

Allmetal worked to help draft SB 11 and was pleased with the outcome of SB 11. Allmetal was disappointed to learn that certain provisions had been delayed. Allmetal believes a database is necessary to help law enforcement combat the criminal element that permeates our industry, but Allmetal also wants to make sure that all law enforcement across the State of Kansas is committed to utilizing the database and thoroughly investigating reported scrap metal crimes.

Allmetal opposes New Section 1 in its entirety. An excise tax on purchased material is not an appropriate method of funding implementation of the scrap metal theft reduction act (“Act”). There are scrap metal dealers (“Dealers”) like Allmetal, whose customer base is composed primarily of commercial accounts. These commercial accounts are typically manufacturing companies and as a result of their manufacturing, scrap metal is a significant byproduct. These commercial accounts utilize their scrap metal recycling as a separate and independent profit center for their businesses. These commercial accounts do not contribute to the theft issue we are attempting to combat, however, these commercial accounts do account for most of the purchase volume certain Dealers have. As drafted, Allmetal, and other Dealers with a large commercial account base, would be required to pay an excise tax on purchased material that is not stolen, and arguably, likely never will be stolen. Therefore, Allmetal and other Dealers will be disproportionately taxed, compared to the amount of the material they purchase that could be stolen. Under the excise tax proposal, Allmetal would pay more than \$100,000.00 annually. There are multiple facilities in Kansas that are as large or larger than Allmetal, thus the excise tax becomes a profit center rather than a reimbursement.

Furthermore, in the scrap metal industry, commercial accounts for some Dealers are their livelihood. Securing a commercial account is an extremely competitive proposition. In order to obtain these commercial accounts, Dealers sometimes operate on extremely thin margins. This is especially true for the aerospace manufacturing companies in the Wichita and Kansas City areas. If Allmetal or Dealers in the Kansas City area ask their aerospace commercial accounts to pay this tax, it is highly probable that these accounts will package their material and sell it to scrap metal dealers in Oklahoma and Missouri respectively. Should this occur, Wichita and Kansas City will lose a significant tax base as Dealer employees leave, but it will also severely impact the amount of excise tax dollars collected.

If Allmetal, or any other Dealer chose, they could weigh the material they purchase so that every transaction was a purchase and was for less than 100 pounds. In this scenario, it might take some time to accomplish, however, no excise tax would be paid. Due to the industry itself, there is no way to enact such a regulation and thus no way to prevent the collection of \$0.00 in excise taxes.

All of this discussion focuses on the inability of an excise tax to properly fund the Act, or for that matter fund it at all. However, this discussion fails to address the glaring reality that the excise tax may in fact reduce, or in some instances, eliminate certain recycling. Scrap metal recycling is a fickle industry. There are customers who will recycle at all costs because they believe it is the correct thing to do, but there are also customers who recycle because financially, it makes sense. Unfortunately, when recycling no longer makes financial sense, those customers in that category will likely just throw material away. Most of our customers know the cost of taking material to a landfill. For instance, our customers in Harper, Kansas have a landfill in their county where they can dispose of items for \$1.00 if they reside in Harper County. If Allmetal has a customer who brings in 100 pounds of Old Sheet, they will make roughly \$35.00. If we take \$0.50 from the customer, and factoring in the customer's time, some customer's will simply pay \$1.00 and take their material to the landfill. This is lost business for Allmetal and lost excise tax revenue for the program.

Allmetal believes that a database needs to be enacted to help law enforcement combat theft that is unfortunately prevalent within our industry. We believe, however, that every Sheriff and County or District Attorney needs to affirm, or re-affirm, their commitment to using the database and investigating and prosecuting alleged crimes in their counties regarding Regulated Scrap Metal. A major complaint we have heard is that we, as an industry, are going to pay for a database that will not be used. If this is reality, then we would be better off doing nothing. Allmetal chooses not to believe this is the most prudent approach. As far as who monitors the database, we believe it would be more cohesive if the Attorney General monitored the licensing and database, however, we also understand that the Attorney General may not have the ability. With that said, Allmetal would like to make certain that there will be no crossover between agencies and Dealers will not have to adhere to separate rules for the same action. For instance, Dealers will only deal with the Attorney General on licensing issues and only with the Kansas Bureau of Investigation ("KBI") on database issues. It will be up to the Attorney General and the KBI to make certain they work together to administer their respective programs. We do not want Dealers to have to answer to multiple agencies for the same thing, thereby creating confusion, tension, and animosity.

The only logical and equitable means to fund the Act is to charge a fee per Dealer per yard for a license. When the Act was first drafted, those of us on the committee specifically wanted its funding to not be through taxation of any kind. While Allmetal believes the reason for the excise tax discussion is primarily based on certain Dealers not wanting to pay \$1,500.00 per yard, this approach is afoul of the intent of the original law and is rife with the ability to corrupt the law so no excise tax is ever paid. If a single tier fee per facility is not preferred, a tiered approach, based upon gross volume at each facility, is a possibility. This is a logical, equitable, easily administered, and non-manipulative approach to accomplish the intent of the Act.

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

Respectfully submitted,

Morgan Koon, Member

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Oral Testimony Requested