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**Testimony in Support of Senate Bill 11
An Act Concerning Regulated Scrap Metal**

**Presented to the House Standing Committee on Judiciary
By Assistant Attorney General Adrian Serene**

March 9, 2015

Chairman Barker and Members of the Committee:

Thank you for the opportunity to speak in support of SB 11, an act concerning regulated scrap metal.

Kansas first enacted legislation specifically addressing the problem of scrap metal theft in 2007. That legislation required scrap metal dealers to maintain certain prescribed information relating to transactions involving scrap metal. The Legislature revisited the scrap metal issue in 2009, 2011, 2012 and 2014. On each successive review, the Legislature sought to amend or repeal the statutes concerning regulated scrap metal. The 2012 legislation required “scrap metal dealers,” as defined by statute, to register with the county or municipality in which the dealer operated. These statutes authorized criminal prosecutions and established severity levels related to violations of these statutes.

SB 11 would create the “Scrap metal theft reduction act” (“Act” or “the Act”). SB 11 would amend or repeal many of the existing statutes regarding regulated scrap metal and scrap metal dealers. Specifically, SB 11 would remove the local oversight of scrap metal dealers and replace it with a statewide registration system to be administered by the attorney general. Likewise, the attorney general would obtain authority to investigate potential violations and enforce the Act. The criminal punishments authorized under existing statutes would be replaced by the attorney general’s new civil and administrative penalty authority. SB 11 would also expand the definition of “regulated scrap metal” and “scrap metal dealer.”

SB 11 would create the enhanced crime of “Aggravated criminal damage to property,” along with new severity levels related to this crime. This new crime relates to the property damage done by a criminal seeking to illegally obtain regulated scrap metal. The criminal sections would authorize prosecutors to introduce certain business records without establishing foundation during a preliminary examination.

SB 11 would impose certain obligations on the attorney general. First, the attorney general would be required to create and maintain a database. That database would include both the registration status of scrap metal dealers and certain records relating to scrap metal transactions, as uploaded to the database by individual scrap metal dealers. The Office of Attorney General Derek Schmidt assumes that an outside vendor would be contracted to create and maintain the database.

The Office assumes at least two new full time employees would be required to investigate and register scrap metal dealers and to assist law enforcement agencies as they investigate scrap metal thefts. The Office assumes that its full time employees could assist law enforcement agencies by reviewing the information related to scrap metal transactions and comparing that information with scrap metal thefts known to law enforcement agencies. For example, the office may be able to match two sales transactions involving 20 pounds of copper to a known theft of 40 pounds of copper.

The Office assumes the cost of the database and full time employees would be offset by registration fees paid to the attorney general by scrap metal dealers. It is unknown exactly how many scrap metal dealer locations will require registration. However, SB 11 would allow the attorney general the flexibility to fix the annual registration fee through rules and regulations at between \$500 and \$1,500. These amounts reflect an increase over the current registration fees.

The Office of Attorney General Derek Schmidt recognizes the significance of the scrap metal theft problem in Kansas. Scrap metal theft impacts a broad range of industries and individuals. The Office appreciates the thoughtful, deliberate approach taken by the Judicial Council, which worked toward this legislative solution to this problem facing the State. SB 11 represents a calculated approach to the problem of scrap metal theft, and the Office of Attorney General Derek Schmidt is happy to work with the Committee as it considers the bill.

Thank you for your consideration.

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