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Senate Judiciary Committee
In support of HB 2312
Assistant Attorney General Kyle Smith
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Chairman Owens and members of the committee, thank you for allowing me to provide testimony on behalf of Attorney General Derek Schmidt in support of HB 2312. The explosive growth in theft of scrap metal, and the concurrent massive criminal damage to property that is often involved, has created a criminal nightmare and economic straight jacket throughout Kansas.

HB 2312 is a smart and effective way of addressing all aspects of the problem. For the first time, the cost to return make the victim whole will be considered in setting the level of the offense. If there is criminal damage to property done, that can be charged as a separate offense. But in many of these cases, there are substantial expenses involved in rewiring or reconnecting the stolen property, outside of actual damage done to the property. The defendant should be punished base, not just on the few dollars of copper stolen, but the tens of thousands of dollars, sometimes hundreds of thousands of dollars that are needed to make the victim whole.

However the real solutions to the problem are new sections 1-3, creating licensing provisions for scrap metal businesses. The problem, and the solution, is as simple as supply and demand. As long as companies can make larger and larger profits without any substantial risk, there are some who will buy stolen metal. If caught, it is a class c misdemeanor and they simply blame and fire the employee. By empowering the local county and cities to license and regulate these businesses, we will for the first time have an effective deterrent that will make the dealers enthusiastic partners in fighting metal theft. Temporary profits will have to be weighed against the potential of losing a license and thus all profits. And this approach will have a large impact on the crimes while having little impact on prison bed space.

One issue that might need additional tweaking is dealing with burned wire. In almost all instances, utility and telephone cable will not show up at the scrap yard in its original marked and identifiable condition. The sheathing on these types of wire clearly indicate the utility that owns it so scrappers bring wire and cable with sheathing removed and the rubber insulation burned off the copper

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wiring. But some wire is so unique, that even without the sheathing, ownership is apparent, for instance, telephone cable is immediately recognizable as it is the only cable a scrap yard sees that has 24 or 26 gauge twisted pairs of copper wire. The bill currently would make purchase of:

(9) property owned and marked by a telephone, cable, electric, water or other utility provider, ***or where any such wire or cable has had the sheathing removed, making ownership identification impossible.***"

- Page 8, line 4-6

The problem is the new language which would allow the state to prosecute when the cable has been removed. Obviously bare wire, commonly sold as ground at hardware stores, would not fall under this as it would be impossible for the state to prove that identifying sheathing had been removed. But there are a lot of cables sold with plain commercial sheathing, and there is a price difference so someone might want to get a higher price by stripping off that sheathing. To resolve this issue, the committee might consider the following modification to make proving ownership of the wire an element of the crime that has to be proven by replacing 'or' with 'and' and limiting it to where the entire sheathing has been removed – thus allowing a legitimate seller to remove all but a foot or two of the sheathing, to prove that it was not privately owned cable or wire.

(9) property owned and marked by a telephone, cable, electric, water or other utility provider, ***or and where any such wire or cable has had the sheathing entirely removed, making ownership identification impossible.***"

On behalf of Attorney General Schmidt, I thank you for your consideration and efforts to address this pervasive, serious and growing problem. I would be happy to try and answer any questions.