2013 SENATE JUDICIARY

SB 2151

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2151
1/21/2013
Job #17440

☐ Conference Committee

Committee Clerk Signature

Minutes: *Attached testimony*

Regulation of scrap metal purchases by scrap metal dealers.

Senator David Hogue - Chairman

Wayne Stenehjem - Attorney General - Explains that this has become an increasing global problem in addition to a problem within the U.S. and now in N.D. He said ND is one of two states that does not have the kind of legislation that he is promoting with SB2151 which is the reporting of scrap metal theft sales to scrap metal dealers in the state. He said it requires scrap metal dealers to keep business records of transactions over $25 including the date, time and place of transaction, description of the weight and type of metal that is sold, the amount and manor of payment, the name and address of the person making the delivery and also keep a photo copy the government issued ID. A purchase of over a $1000 would have to be done by check or electronic transfer, not cash. He goes on to explain some cases in ND.

Senator J. Lee - Says she is pleased to sponsor this bill and says this is what is needed and encourages a do pass.

Senator David O'Connell - District 6 - Mentions how he became involved with this issue.

Senator Hogue - Asks if the rationale behind the bill is that if we require the junkyards to keep track of things coming in and criminals will be less likely to come to ND to pawn off stolen property.

Attorney General - Said either that or they would find out who is actually bringing things into the scrap dealers. He mentions how it is a big problem here. He also gives examples of the things that are being stolen.

Senator Grabinger - Asks if Minnesota has this law.

Attorney General - Replies they do and his aim is to work with law enforcement across the country.

Danielle Waterfield - Institute of Scrap Recycling Industries (ISRI) - Written testimony (1) Hands in testimony for two others not testifying.

Mike Reitan - Assistant Chief of Police - West Fargo, ND - See written testimony (2)

Senator Hogue - Asks about the inspection provision.

Reitan - Replies yes but the provisions of the law requires them to notify the salvage yard of their intent and that they abide by the rules of the yard.

Senator Hogue - Asks as law enforcement if they have right to go into other businesses and do that without due process to the business owner.

Reitan - Says under the alcohol statute they are allowed to go in and inspect their license to see if it is posted, also pawn shops. He describes how the pawn shops have set up an electronic network that they can go into and search a particular material or item and it will check all the pawn shops.

Senator Berry - Asks about the rogue dealers.

Reitan - Explains the Minnesota statute and how the scrap metal dealers are registered. He said the cooperation between scrap metal dealers and law enforcement in the Fargo area is phenomenal. He says they are already doing what is in the statute but this establishes it as a state wide system.

Harlan Fuglesten - ND Association of Rural Electric Cooperatives - See written testimony (3).

Attorney General - Would like to add that rogue operators would be required to register. He also added that no scrap metal dealers had a problem with law enforcement coming in.

Opposition - 0
Neutral - 0

Close the hearing

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2151
1/23/2013
Job #17541

☐ Conference Committee

Committee Clerk Signature	

Minutes:

Senator David Hogue - Chairman

Committee Work

Senator Hogue relays his concern on this bill that police officers can go onto a business owner's property and demand they be able to inspect the business and not having any show of probable cause or search warrant. The committee discusses how pawn shops have that now but they are licensed. Senator Sitte says she will call some of the scrap metal dealers and see what they think of the bill. Senator Grabinger says there was testimony from scrap metal dealers and they were on board with it. Senator Hogue relates that he wouldn't want police to be able to just come in and go through his records. The committee decides to wait on acting on this bill till they get more information or can have the Attorney General come in again and speak on it.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2151
1/30/2013
Job #18015

☐ Conference Committee

Committee Clerk Signature

Minutes:

Senator Hogue - Chairman

Committee Work

Senator Hogue brings in a scrap metal dealer to speak on the bill and answer questions the committee may have.

Kevin Hanson - Regional Manager for Gerdau Long Steel - Minot ND - Says they are in support of this bill and as an industry they need to have this. He goes on to explain how they do have situations where things are brought in that are questionable. The committee discusses if it is okay that law enforcement can come in anytime to his business. He replies that law enforcement does that now and it is okay with them. He said the scrap metal dealers that are doing what they are supposed to be doing do not have a problem with it. Attorney General Wayne Stenehjem comes to answer questions on the bill. Senator Armstrong says he is concerned about the 4th Amendment here. The committee talks extensively about the 4th Amendment. The Attorney General mentions there are other organizations that do allow law enforcement in to look at records. He said the problem with getting a warrant is that the scrap metal dealers aren't the target of the investigation so you can't go to court and get a warrant. They are after those who may have come in and sold the material. He goes on to say law enforcement need the dealers support and help and need to have a good relationship. He says all the dealers he spoke to thought this bill is a good idea. Senator Sitte asks him walk through an investigation. She asks if they amended the bill and took out the issue of the 4th Amendment rights would it be okay. Attorney General Stenehjem responds that it wouldn't be because they cannot get a warrant to go in because the scrap metal dealers are not the target. He said if there is a problem with this law they'll be back in two years but he thinks this law will work very well. He reiterates that the stealing of this material is a huge problem and getting worse.

Senator Grabinger - moves a do pass
Senator Armstong - seconded

Discussion
Senator Sitte thinks maybe the cities could have their own ordinance. Senator Nelson mentions it is Fargo that has one and that West Fargo may want one. Senator Hogue

mentions that it is an increasingly big problem in the west part of the state. There is still concern of breaching the 4th Amendment.

Senator Hogue asks Senator Grabinger to hold his motion

Senator Sitte proposes an amendment dealing with 4th amendment rights.
Senator Berry seconded

Verbal vote - motion fails - 6 no, 1 yes

Discussion
Senator Lyson says this may just work but if there are problems they'll be back. Senator Hogue says it makes sense because the scrap metal dealers do not have a problem with this.

Senator Grabinger renews his motion for a do pass

Vote - 7 yes, 0 no

Senator Grabinger will carry

Date: 1/30/13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2151

Senate JUDICIARY Committee

☐ Check here for Conference Committee Sec. 1

Legislative Council Amendment Number Remove 4 & 5

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By S. Sitte Seconded By S. Berry

Senators	Yes	No	Senator	Yes	No
Chariman David Hogue		1	Senator Carolyn Nelson		1
Vice Chairman Margaret Sitte	1		Senator John Grabinger		1
Senator Stanley Lyson		1			
Senator Spencer Berry		1			
Senator Kelly Armstrong		1			

Total (Yes) 1 No 6

Absent

Floor Assignment Verbal vote - motion fails

If the vote is on an amendment, briefly indicate intent:

Date: 1/30/13
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2151

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By S. Grabinger Seconded By S. Armstrong

Senators	Yes	No	Senator	Yes	No
Chariman David Hogue	X		Senator Carolyn Nelson	X	
Vice Chairman Margaret Sitte	X		Senator John Grabinger	X	
Senator Stanley Lyson	X				
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 7 No 0

Absent -0-

Floor Assignment S. Grabinger.

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2151: Judiciary Committee (Sen. Hogue, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2151 was placed on the Eleventh order on the calendar.

2013 HOUSE INDUSTRY, BUSINESS, AND LABOR

SB 2151

2013 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2151
March 12, 2013
Job 19756

☐ Conference Committee

Kristi Hetzler

Explanation or reason for introduction of bill/resolution:

Provide for regulation of scrap metal purchases by scrap metal dealers; and to provide a penalty

Minutes: *Testimony 1,2,3,4,5*

Hearing opened.

Wayne Stenehjem, Attorney General: Provided background on the increasing frequency of theft of scrap metal. Gave examples of specific incidents.

2:37 **Senator Judy Lee**: Provided background on the need for this bill. The theft of copper is very common. Encouraged support of SB 2151.

4:19 **Attorney General Stenehjem:** Gave examples of specific incidents. Summarized conversations he has had with various groups, organizations, and industry regarding what could be done to address this issue. Summarized the bill and the requirements for records which much be kept by scrap metal dealers. Distributed packet of news stories, attachment 1. Requested the addition of an emergency clause, attachment 2.

10:20 **Representative Vigesaa:** Are the scrap metal dealers support of all the requirements that will be ask for?

10:39 **Attorney General Stenehjem:** The only discrepancy is the payment of cash.

11:41 **Representative Vigesaa:** Was there any discussion on if someone has permission to remove scrap metal off of a farm and they go to sell it, how does that work?

Attorney General Stenehjem: The bill does not prohibit the purchase of those purchases. It only provides that report must be done.

12:37 **Representative Ruby**: Is this language broad enough to include car batteries?

Attorney General Stenehjem: Yes.

13:14 **Representative Amerman:** Is law enforcement allowed to do checks or is a search warrant going to be needed.

Attorney General Stenehjem: No, they have the right to see records and do checks.

13:55 **Representative Gruchalla:** What if an individual went around collecting metals and then went to scrap yard with them?

14:20 **Attorney General Stenehjem:** They are required to keep records and subject to inspections.

14:29 **Representative Gruchalla:** Is this bill used more to catch thieves rather than making buying and selling metal more difficult.

Attorney General Stenehjem: Yes.

16:25 **Representative Ruby:** Once this would be put in place will the thieves just go outside and state and is there any reciprocity with other states.

16:46 **Attorney General Stenehjem**: Every other state already has a law like this, so yes.

17:05 **Representative Boschee:** Does scrap metal dealers every have to call law enforcement because of suspicious activity?

17:20 **Attorney General Stenehjem**: Yes.

17:46 **Representative M. Nelson**: Where does jewelry fall in all this?

18:23 **Attorney General Stenehjem**: Jewelry usually goes through the pond shops and there are regulations with their records also.

18:50 **Representative M. Nelson:** Question about multiple transactions in order to stay under amount at which reporting is required.

Attorney General Stenehjem: This targets the larger transactions.

20:09 **Phil Pfennig, chief agent of the North Dakota Bureau of Criminal Investigation:** Supports SB 2151. Provided written testimony, attachment 3.

22:14 **Mike Reitan, assistant chief of the West Fargo Police Department:** Provided written testimony, attachment 4. Elaborated on requirements in Minnesota. Spoke of ways to assist departments with investigations.

26:12 **Representative Gruchalla:** Questions the penalties of Minnesota and South Dakota and what they are?

Mike Reitan: I was referring to the registration process not being as extensive not the actual penalties.

26:48 **Representative Gruchalla:** ND doesn't want to be the dumping ground so I was looking for consistency with penalties within our state and other?

Mike Reitan: I did not compare state to state penalties.

27:54 **Harlan Fuglesten,** North Dakota Association of Rural Electric Cooperatives: Provided written testimony, attachment 5.

29:34 **Attorney General Stenehjem:** I visited with ND Associated Homebuilders representative and they also support this bill along with Association of General Contractors. Gave example of copper theft from flood-damaged homes in Minot.

Representative Ruby: Moves the Amendment.

Representative Boschee: Second.

Voice vote on adoption of amendment to add an effective date. Voice vote carries.

Representative Ruby: Motion for a **do pass as amended.**

Representative Gruchalla: Second.

Roll call vote on motion for a do pass as amended. Motion carried.

Yes = 15

No = 0

Absent = 0

Carrier: Representative Boschee

13.8193.01001
Title.02000

Adopted by the Industry, Business and Labor Committee

March 12, 2013

VK
3/13/13

PROPOSED AMENDMENTS TO SENATE BILL NO. 2151

Page 1, line 1, remove "and"

Page 1, line 2, after "penalty" insert "; to provide an effective date; and to declare an emergency"

Page 3, after line 30, insert:

"**SECTION 5. EFFECTIVE DATE.** This Act becomes effective on May 1, 2013.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 3-12-2013

Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2151

House Industry, Business, and Labor Committee

Legislative Council Amendment Number 2151

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☑ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider ☐ Consent Calendar

Motion Made By Ruby Seconded By Boschee

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser			Rep. Bill Amerman		
Vice Chairman Gary Sukut			Rep. Joshua Boschee		
Rep. Thomas Beadle			Rep. Edmund Gruchalla		
Rep. Rick Becker			Rep. Marvin Nelson		
Rep. Robert Frantsvog					
Rep. Nancy Johnson					
Rep. Jim Kasper					
Rep. Curtiss Kreun	Voice				
Rep. Scott Louser					
Rep. Dan Ruby					
Rep. Don Vigesaa					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Effective date

Date: 3-12-2013

Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2151

House Industry, Business, and Labor Committee

Legislative Council Amendment Number 13.8193.01001

Action Taken: ☑ Do Pass ☐ Do Not Pass ☑ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider ☐ Consent Calendar

Motion Made By Ruby Seconded By Gruchalla

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser	✓		Rep. Bill Amerman	✓	
Vice Chairman Gary Sukut	✓		Rep. Joshua Boschee	✓	
Rep. Thomas Beadle	✓		Rep. Edmund Gruchalla	✓	
Rep. Rick Becker	✓		Rep. Marvin Nelson	✓	
Rep. Robert Frantsvog	✓				
Rep. Nancy Johnson	✓				
Rep. Jim Kasper	✓				
Rep. Curtiss Kreun	✓				
Rep. Scott Louser	✓				
Rep. Dan Ruby	✓				
Rep. Don Vigesaa	✓				

Total Yes 15 No 0

Absent –

Floor Assignment Boschee

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2151: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2151 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "and"

Page 1, line 2, after "penalty" insert "; to provide an effective date; and to declare an emergency"

Page 3, after line 30, insert:

"**SECTION 5. EFFECTIVE DATE.** This Act becomes effective on May 1, 2013.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2013 TESTIMONY

SB 2151

2151 ①

STATEMENT OF
DANIELLE F. WATERFIELD, ESQ.
ASSISTANT COUNSEL/DIRECTOR OF GOVERNMENT RELATIONS
INSTITUTE OF SCRAP RECYCLING INDUSTRIES
WASHINGTON, D.C.

BEFORE THE
NORTH DAKOTA SENATE JUDICIARY COMMITTEE
JANUARY 21, 2013
BISMARCK, NORTH DAKOTA

Mr. Chairman and Members of the committee, my name is Danielle Waterfield. I am here representing the **Institute of Scrap Recycling Industries (ISRI).** I want to thank you for giving us the opportunity today to participate in this hearing and to offer the scrap recycling industry's support for SB 2151, a measure designed to deal with the metals theft issue by regulating scrap metal purchases by scrap metal dealers.

ISRI is the trade association that represents more than 1,700 private sector, for-profit companies that process, broker and industrially consume scrap commodities including metals, paper, plastics, glass, textiles, rubber and electronics at nearly 7,000 facilities worldwide—more than 5,000 of which are located in the U.S. In North Dakota, ISRI members operate scrap recycling facilities in six different locations, specifically in Bismarck, Fargo, Jamestown, Milnor, and the Chairman's hometown of Minot. Scrap recycling directly provides 110 jobs in North Dakota with annual wages of $5.5 million earned by citizens of North Dakota. (see attached)

ISRI's member companies are primarily small- to medium-sized, family-owned businesses as well as some very large publicly and privately held enterprises that have existed in the same towns and cities throughout America for the past century, creating the backbone of the recycling infrastructure you see in this country today. ISRI members have provided stable, good-paying jobs in this country during the boom years, the lean years, and in war time. Understandably, we have been known for a long time as America's Original Recyclers® and proudly wear the badge of the Voice of the Recycling Industry®.

Scrap recycling is an established industry critical to the economic and environmental life of this country and the world, and a vital first step in the global manufacturing supply chain. In addition to supplying more than 136,000 direct, good-paying jobs in the U.S., the global scrap recycling industry supplies approximately 40% of the world's raw material needs in the form of specification-grade commodities that, in many cases, can substitute directly for virgin materials in the production of new, basic materials. Last year alone, the American scrap recycling industry recycled more than 150 million tons of scrap materials worth more than $100 billion, supplying industrial consumers such as steel mills, foundries, paper mills, copper refiners, ingot makers and aluminum smelters in the U.S. and more than 161 different countries worldwide. Clearly, the American scrap recycling industry is a dynamic economic contributor to local communities across this country.

ISRI has been working aggressively over the past few years to help solve the problem of metals theft, of which scrap yards are also victims. Of the many tactics employed to stop metal thieves, the most effective mechanism is

communication and cooperation among all stakeholders. Last year, North Dakota Attorney General Wayne Stenehjem approached ISRI representatives requesting the industry's advice and cooperation in putting together effective metals theft prevention legislation for the state of North Dakota. The Attorney General brought all the stakeholders together, including representatives from state law enforcement and the scrap recycling industry. Collectively, this group hammered out draft language that is reflected now in the legislation before this committee today (SB 2151). The legislation is a working compromise of all stakeholders in North Dakota addressing the needs and concerns of all in how to best curb metals theft in the state.

The most effective way to address the problem of metals theft is through a comprehensive strategy focusing on 1) preventing metals theft to the maximum extent practicable; 2) assisting law enforcement and prosecutors to the extent necessary in their efforts to indict, prosecute, and penalize those who perpetrate these thefts; 3) identifying and prosecuting "rogue recyclers" who do not comply with local, state and federal regulations in order to dissuade their collaborators from going a similar path; and 4) eliminating the possibility of "forum shopping" where thieves can easily move stolen material from one jurisdiction in the state to another with more lenient laws.

Preventing Metals Theft

The underlying problem that truly needs to be addressed is how to stop thieves from stealing – a social dilemma that this legislative body is not likely to resolve. Nevertheless, as a key stakeholder in the metals theft discussion, the scrap

recycling industry takes its responsibility seriously and continues to seek ways it can help law enforcement stop these nefarious criminals.

ISRI has found that perhaps the strongest defense against metals theft is taking an even stronger offense to prevent the crime from occurring in the first place. Theft will continue as long as thieves have no fear of being penalized for their actions. ISRI encourages this body to consider implementing a zero-tolerance policy based on existing state law to discourage thieves from even thinking about stealing metals. All too often we have seen where the theft of metals is treated as a "low level" property crime. Criminal thieves know that even if they are caught, they will be back on the street to steal again. While there are clearly legitimate reasons for this outcome, ISRI argues that the unintended consequences are far worse. SB 2151 is a step in the right direction by focusing on operations that aid criminals, though ISRI would argue that stiffer penalties on those who steal metals, particularly repeat offenders, would go even further to prevent metals theft.

Though not specifically addressed in SB 2151 – one of the most effective mechanisms is for property owners to clearly mark their materials in a manner that makes it difficult for anyone to sell without proof of ownership. Ownership markings do not need to be complicated or expensive. The act of simply spray painting a small mark on exposed material could be enough to set it apart from the tons of legitimate scrap that crosses over a scrap recycler's scale. In addition to prioritizing the crime of metals theft, ISRI encourages this body to consider incentives for property owners to mark their property in an effort to deter thieves from the start.

Assisting Law Enforcement Catch Thieves

The recordkeeping requirements in SB 2151 will give law enforcement the tools it needs to catch metals thieves. While legitimate scrap metal recyclers have long kept records of their transactions, there is no law currently in North Dakota requiring such records be kept or made available to law enforcement. The scrap recycling industry believes the daily records we keep can play a pivotal role in identifying individuals who try to sell stolen metal. In fact, specific recordkeeping is encouraged in the industry's Recommended Practices for Preventing Materials Theft, which are published on the ISRI.org website.

Furthermore, in recent years, the scrap recycling industry has taken upon itself a responsibility that few other industries have ever even considered to combat a criminal element that threatens public safety. The most notable effort is the development of an industry-funded automated online reporting mechanism designed to stop metals theft in its tracks by alerting scrap recyclers of materials stolen material for which they can be on the lookout and report to police if it comes through their doors.

At no cost to the taxpayer, ISRI's *ScrapTheftAlert.com* (STA.com) system is available to each and every law enforcement agency in the country and any scrap recycler and public citizen interested in receiving notification of stolen metal for which to be on the lookout. Whenever information relating to a metals theft is entered into STA.com by law enforcement officers, the program immediately puts out an email alert to all our contacts within a defined radius – not only in the state where the theft occurred, but in surrounding states as well, giving scrap yards

notice to be on the lookout for the material. We also issue "reverse alerts" to address the not uncommon situation where scrap yards have received materials they believe to be stolen and are looking for the original owners so the material can be returned. These efforts have been praised by local enforcement agencies for assisting in the arrest of numerous suspects. A series of success stories are enumerated on the STA.com website.

ISRI encourages the law enforcement community in North Dakota to utilize this alert system provided by the industry. We would be pleased to offer a demonstration of the system to this body and any interested law enforcement officer, along with training to use STA.com at no charge to the taxpayer.

Identify and Shut Down Illegal Operations

Unfortunately, there are rogue operations in the state that intermittently set up temporary pick up sites and purchase scrap metal with no record of from whom and where the metal originated. ISRI does not represent or in any way support those operations that knowingly take stolen materials or engage in illegal activities. SB 2151 will give law enforcement the ability to identify and shut down these illegal operations, as well as provide the documented evidence that connects the stolen material to the thief trying to sell it.

Every day that rogue operations are permitted to operate, legitimate scrap recyclers lose credibility and are put at a financial disadvantage. The same zero-tolerance approach previously discussed should also be applied to rogue illegal scrap operations. SB 2151 targets those operations which are guilty of substantive

violations. For this reason, the industry supports the penalties in SB 2151 imposed on willful violations of the law.

Eliminating Forum Shopping

The scrap recycling industry supports the manner in which SB 2151 will establish consistent state-wide rules upon which both industry and law enforcement can rely. Scrap dealers and many local law enforcement agencies agree that North Dakota must have one set of laws to follow as it pertains to the purchasing of scrap metal. This also pertains to the enforcement of the law. We have found that inconsistent laws and the lack of enforcement in certain jurisdictions allows thieves to move the stolen material out of one jurisdiction to another where the laws are not as strict or enforced. SB 2151 gives law enforcement an equal footing throughout the state regardless of where the theft occurred.

Conclusion

ISRI supports efforts that are proven to deter metals theft. We believe that SB 2151 provides law enforcement with the tools necessary to deter theft by making it harder for thieves to take stolen material underground and sell to illegal operations or go undetected by engaging in anonymous sales. The use of ScrapTheftAlert.com is also another tool that has a proven success record and the industry offers it to the citizens and law enforcement of North Dakota at the industry's expense.

Legitimate scrap dealers are part of the solution to metals theft, not the problem. It is important that this body recognizes that it is nearly impossible to tell the difference

between stolen material and legitimate material that comes to a scrap yard, even when you know to be on the lookout. In most cases, by the time the metal reaches a scrap yard it has been cut into pieces, stripped, crushed or otherwise transformed in such a way as to make it indistinguishable from the tens of thousands of pounds of legitimate scrap metal purchased by yards each day. Yet, despite the recent rash of theft, stolen material makes up a very small percentage of the material that comes to scrap yards each day. We believe that SB 2151 is the right balance to accommodate the needs of law enforcement while minimizing the regulatory burdens placed on legitimate business in the state.

Thank you for allowing me to testify today. The industry remains committed to working with law enforcement to help stem this problem plaguing all of us.

ISRI Institute of Scrap Recycling Industries, Inc.
Voice of the Recycling Industry

The U.S. Scrap Recycling Industry Creates and Supports Jobs in North Dakota

	Jobs	Wages	Economic Impact
Direct Impacts			
Scrap Recyclers	110	$5,500,000	$19,240,000
Brokers	-	$-	$-
Total Direct Impacts	110	$5,500,000	$19,240,000
Supplier Impacts			
Agriculture	41	$873,842	$6,308,656
Mining	7	$1,132,584	$2,850,805
Construction	1	$236,032	$452,747
Manufacturing	17	$1,023,522	$11,766,229
Transportation & Communication	5	$1,273,927	$6,641,991
Wholesaling	5	$780,083	$2,110,627
Retailing	1	$43,729	$105,035
Finance, Insurance & Real Estate	8	$877,483	$3,246,718
Travel & Entertainment	5	$231,260	$776,519
Business & Personal Services	20	$1,094,328	$1,734,286
Government	2	$272,408	$847,704
Total Supplier Impacts	110	$7,840,000	$36,840,000
Induced Impacts			
Agriculture	1	$35,182	$229,293
Mining	-	$2,340	$7,128
Construction	1	$36,512	$79,056
Manufacturing	1	$85,087	$551,516
Transportation & Communication	3	$207,154	$917,136
Wholesaling	3	$206,450	$552,004
Retailing	15	$381,044	$922,964
Finance, Insurance & Real Estate	9	$391,738	$2,449,485
Travel & Entertainment	11	$177,461	$612,725
Business & Personal Services	29	$1,070,655	$2,110,922
Government	1	$73,139	$209,644
Other	-	$3,409	$21,799
Total Induced Impacts	70	$2,670,000	$8,660,000
Total Economic Impact	290	$16,010,000	$64,750,000

	Federal Taxes	State and Local Taxes	Total Taxes
Business Taxes	$2,303,654	$1,636,004	$3,939,658

Some details may not add due to rounding

2151 ①

ISRI
Voice of the Recycling Industry

Institute of Scrap Recycling Industries, Inc.
www.isri.org

Chairman David Hogue
Senate Judiciary Committee
North Dakota Senate
600 East Boulevard
Bismarck, ND 58505-0360

January 21, 2013

Dear Chairman Hogue,

On behalf of the Northwest Chapter of the Institute of Scrap Recycling Industries ("ISRI"), we are pleased to offer the support of the scrap recycling industry of North Dakota for passage of SB 2151. ISRI is a national trade association that represents more than 1,700 member companies that process, broker and consume scrap metals, paper, plastics, glass, electronics, textiles, tires and rubber. We are an industry that ranges in size from small-family owned operations, many of which have been in business for generations, to large multinational corporations. ISRI members operate scrap recycling facilities in six different locations in North Dakota, specifically in Bismarck, Fargo, Jamestown, Milnor, and the Chairman's home of Minot. Our industry plays an important economic role in the state by directly providing 110 jobs in North Dakota with annual wages of $5.5 million earned by citizens of North Dakota.

ISRI has been working aggressively over the past few years to help solve the problem of metals theft, of which scrap yards are also victims. Of the many tactics employed to stop metal thieves, the most effective mechanism is communication and cooperation among all stakeholders. Last year, North Dakota Attorney General Wayne Stenehjem approached ISRI representatives requesting the industry's advice and cooperation in putting together effective metals theft prevention legislation for the state of North Dakota. The Attorney General brought all the stakeholders together, including representatives from state law enforcement and the scrap recycling industry. Collectively, this group hammered out draft language that is reflected now in SB 2151. The legislation is a working compromise addressing the needs and concerns of all in how to best curb metals theft in the state.

The legitimate scrap recycling industry in North Dakota consists of law-abiding, tax-paying, job-creating businesses that have a very significant vested interest in the economic state and well-being of their communities. Unfortunately, it is nearly impossible to tell the difference between stolen material and legitimate material that comes to a scrap yard. In most cases, by the time the metal reaches a scrap yard it has been cut into pieces, stripped, crushed or otherwise transformed in such a way as to make it indistinguishable from the tens of thousands of pounds of legitimate scrap metal purchased by yards each day. Yet, despite the recent rash of theft, stolen material makes up a very small percentage of the material that comes to scrap yards each day. That said, the industry recognizes its role and responsibility in helping law enforcement catch metals thieves and remains committed to working to help stem this problem plaguing all of us.

SB 2151 is a well-balanced approach aimed at ensuring the state's law enforcement community has the tools it needs to catch metal thieves and prosecute bad actors who knowingly participate in the crime of metals theft. For that reason, ISRI members of the Northwest Chapter of ISRI are pleased to place the industry's support behind this important legislation and offer whatever resources it has available to ensure its enactment.

Thank you and we look forward to working with you on this matter.

Sincerely,

Eva Shine
ISRI NW Chapter President

Tony White
ISRI NW Chapter Vice President

2151 (2)

Judiciary Committee
Senate Bill 2151
Testimony of Mike Reitan, Assistant Chief, West Fargo Police

Good Morning Chairman Hogue and members of the committee. For the record my name is Mike Reitan, Assistant Chief of the West Fargo Police Department. I am testifying today in support of Senate Bill 2151. The bill before you today is meant to assist in the apprehension of those individuals responsible for the theft of recyclable metals in the state of North Dakota.

On a relatively routine basis the officers of the West Fargo Police Department respond to the report of electrical wire, scrap metals or motor vehicle parts being stolen. The items stolen have been stored in the open upon the owner's property, within fenced areas and within locked buildings. On some occasions the thief has used the owner's fork lift or loader to assist in making off with the property.

Within West Fargo the areas typically targeted are new construction areas, body shops, vehicle salvage yards and manufacturers. While most items stolen would be considered scrap material, we are also seeing new electrical wire and copper plumbing pipe being taken from construction sites or from the contractor's building. I have heard reports from areas of rural North Dakota that farm sites have also experienced thefts. Overhead wiring, agricultural equipment and irrigation tubing are some of the items targeted.

The West Fargo Police Department has taken a pro-active approach to deter and investigate this type of theft. Officers are instructed to increase their patrol of new construction areas. We check with the contractors to find out when electrical wiring and plumbing fixtures will be on the construction site. With the permission of the contractors the department has installed video equipment and portable alarms systems to assist in apprehending those responsible for the thefts. But it is not always enough.

Scrap metal needs to be sold somewhere for the thief to experience a financial gain. Where the stolen goods are typically sold is to a scrap metal dealer. By enlisting the assistance of scrap metal dealers through the provisions of Senate Bill 2151 law enforcement officers can be afforded the opportunity to review records relating to transactions involving scrap metals and identify individuals selling scrap metals in the community. Such assistance is necessary for law enforcement to be able to curb the theft of recyclable materials.

As a reference, I have attached the more restrictive requires of Minnesota Statute 325E.21 Dealers in Scrap Metal; Records, Reports and Registration. I have also included South Dakota Codified Law 34A-6-108 through 112 relating to scrap metal dealers.

While the bill before us is not as restrictive as that found in Minnesota or South Dakota the draft bill is certainly a step in the right direction. I ask for your support in the passage of Senate Bill 2151. Thank you and I would be willing to take any questions you may have.

2

2012 Minnesota Statutes

325E.21 DEALERS IN SCRAP METAL; RECORDS, REPORTS, AND REGISTRATION.

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Law enforcement agency" or "agency" means a duly authorized municipal, county, state, or federal law enforcement agency.

(c) "Person" means an individual, partnership, limited partnership, limited liability company, corporation, or other entity.

(d) "Scrap metal" means:

(1) wire and cable commonly and customarily used by communication and electric utilities; and

(2) copper, aluminum, or any other metal purchased primarily for its reuse or recycling value as raw etal, including metal that is combined with other materials at the time of purchase.

(e) "Scrap metal dealer" or "dealer" means a person engaged in the business of buying or selling scrap metal, or both, but does not include a person engaged exclusively in the business of buying or selling new or used motor vehicles or motor vehicle parts, paper or wood products, rags or furniture, or secondhand machinery.

Subd. 1a. **Purchase or acquisition record required.** (a) Every scrap metal dealer, including an agent, employee, or representative of the dealer, shall keep a written record at the time of each purchase or acquisition of scrap metal. The record must include:

(1) an accurate account or description, including the weight if customarily purchased by weight, of the scrap metal purchased or acquired;

(2) the date, time, and place of the receipt of the scrap metal purchased or acquired;

(3) the name and address of the person selling or delivering the scrap metal;

(4) the number of the check or electronic transfer used to purchase the scrap metal;

(5) the number of the seller's or deliverer's driver's license, Minnesota identification card number, or other identification document number of an identification document issued for identification purposes by any state, federal, or foreign government if the document includes the person's photograph, full name, birth date, and signature; and

(6) the license plate number and description of the vehicle used by the person when delivering the scrap etal, and any identifying marks on the vehicle, such as a business name, decals, or markings, if applicable.

(b) The record, as well as the scrap metal purchased or received, shall at all reasonable times be open to the inspection of any law enforcement agency.

(c) No record is required for property purchased from merchants, manufacturers or wholesale dealers, having an established place of business, or of any goods purchased at open sale from any bankrupt stock, but a bill of sale or other evidence of open or legitimate purchase of the property shall be obtained and kept by the person, which must be shown upon demand to any law enforcement agency.

(d) Except as otherwise provided in this section, a scrap metal dealer or the dealer's agent, employee, or representative may not disclose personal information concerning a customer without the customer's consent unless the disclosure is made in response to a request from a law enforcement agency. A scrap metal dealer must implement reasonable safeguards to protect the security of the personal information and prevent unauthorized access to or disclosure of the information. For purposes of this paragraph, "personal information" is any individually identifiable information gathered in connection with a record under paragraph (a).

Subd. 2. **Retention required.** Records required to be maintained by subdivision 1a shall be retained by the scrap metal dealer for a period of three years.

Subd. 2a. **Purchase or receipt of beer kegs.** A scrap metal dealer, or the dealer's agent, employer, or representative, shall not purchase or receive a refillable metal beer keg from anyone except the manufacturer of the beer keg, the brewer of the beer that was sold or provided in the keg, or an authorized representative of the manufacturer or brewer.

Subd. 3. **Payment by check or electronic transfer required.** A scrap metal dealer or the dealer's agent, employee, or representative shall pay for all scrap metal purchases only by check or electronic transfer.

Subd. 4. **Registration required.** (a) Every scrap metal dealer shall register with and participate in the criminal alert network described in section 299A.61. The dealer shall ensure that the dealer's system for receiving incoming notices from the network is in proper working order and ready to receive incoming notices. The dealer shall check the system for incoming notices twice each day the business is open, once upon opening and then again before closing. The dealer shall inform all employees involved in the purchasing or receiving of scrap metal of alerts received relating to scrap metal of the type that might be conceivably sold to the dealer. In addition, the dealer shall post copies of the alerts in a conspicuous location.

(b) The scrap metal dealer shall pay to the commissioner of public safety a $50 annual fee to participate in the criminal alert network and for the educational materials described in section 299C.25.

(c) The commissioner shall notify the scrap metal dealer if a message sent to the dealer is returned as undeliverable or is otherwise not accepted for delivery by the dealer's system. The dealer shall take action necessary to ensure that future messages are received.

Subd. 5. **Training.** Each scrap metal dealer shall review the educational materials provided by the superintendent of the Bureau of Criminal Apprehension under section 299C.25 and ensure that all employees do so as well.

Subd. 6. **Criminal penalty.** A scrap metal dealer, or the agent, employee, or representative of the dealer, who intentionally violates a provision of this section, is guilty of a misdemeanor.

Subd. 7. **Exemption.** A scrap metal dealer may purchase aluminum cans without complying with this section.

Subd. 8. **Property held by law enforcement.** (a) Whenever a law enforcement official from any agency has probable cause to believe that property in the possession of a scrap metal dealer is stolen or is evidence of a crime and notifies the dealer not to sell the item, the item may not be sold or removed from the premises. This investigative hold remains in effect for 90 days from the date of initial notification, or until it is canceled or a seizure order is issued, whichever comes first.

(b) If an item is identified as stolen or evidence in a criminal case, the law enforcement official may:

(1) physically seize and remove it from the dealer, pursuant to a written order from the law enforcement official; or

(2) place the item on hold or extend the hold as provided in this section and leave it in the shop.

(c) When an item is seized, the person doing so shall provide identification upon request of the dealer, and shall provide the dealer the name and telephone number of the seizing agency and investigator, and the case number related to the seizure.

(d) A dealer may request seized property be returned in accordance with section 626.04.

(e) When an order to hold or seize is no longer necessary, the law enforcement official shall so notify the dealer.

Subd. 9. **Video security cameras required.** (a) Each scrap metal dealer shall install and maintain at each location video surveillance cameras, still digital cameras, or similar devices positioned to record or photograph a frontal view showing the face of each seller or prospective seller of scrap metal who enters the location. The scrap metal dealer shall also photograph the seller's or prospective seller's vehicle, including license plate, either by video camera or still digital camera, so that an accurate and complete description of it may be obtained from the recordings made by the cameras. The video camera or still digital camera must be kept in operating condition. The camera must record and display the accurate date and time. The video camera must be turned on at all times when the location is open for business and at any other time when scrap metal is purchased.

(b) If the scrap metal dealer does not purchase some or any scrap metal at a specific business location, the dealer need not comply with this subdivision with respect to those purchases.

History: *(10225) 1907 c 228 s 1; 1957 c 960 s 1; 1973 c 123 art 5 s 7; 1986 c 444; 2005 c 10 art 2 s 4; 2007 c 54 art 7 s 21; 2008 c 259 s 1*

2

34A-6-108. Definition of terms. Terms used in this section and §§ 34A-6-109 to 34A-6-112, inclusive, mean:

(1) "Industrial or commercial account," any person or business, including a scrap metal business, operating from a fixed location, that sells nonferrous metal to a scrap metal recycler pursuant to a contractual arrangement or agreement;

(2) "Law enforcement officer," any law enforcement officer as defined in § 23-3-7;

(3) "Nonferrous metal property," any metal property for which the value of the metal property is derived from the property's content of copper, brass, aluminum, bronze, lead, zinc, platinum, rhodium, palladium, or nickel, or any of their alloys. Aluminum does not include any food or beverage containers, except for a beer keg;

(4) "Record," a paper, electronic, or other method of storing information;

(5) "Scrap metal business," any scrap metal supplier, scrap metal recycling center, or scrap metal processor;

(6) "Transaction," a pledge to buy, the purchase of, or the trade for any nonferrous metal property by a scrap metal business from any person. A transaction does not include a sale or trade involving any industrial commercial account.

Source: SL 2008, ch 179, § 1.

2

34A-6-109. Scrap metal business to keep records of purchase of nonferrous metal property. Each scrap metal business shall keep records of each transaction involving the purchase of nonferrous metal property that exceeds one hundred dollars. The scrap metal business shall be able to produce an accurate and legible record of each transaction involving nonferrous metal property at the location where the scrap metal is purchased. The records shall contain the following information:

(1) Date, location, and value of the transaction;

(2) Signature of the person selling the nonferrous metal property;

(3) Name, street address, city, and state of the seller;

(4) Current drivers license number or other government issued picture identification card number of the seller or, if no number is available, a copy of the seller's government issued picture identification card;

(5) A description of the predominant types of nonferrous metal property involved in the transaction, including the weight, quantity, or volume of the scrap nonferrous metal; and

(6) Name of the employee representing the scrap metal business in the transaction.

Source: SL 2008, ch 179, § 2.

2

34A-6-110. Scrap metal business records open to inspection by law enforcement officers. The record required by §§ 34A-6-108 to 34A-6-112, inclusive, shall be open to the inspection of any law enforcement officer at all times during the ordinary hours of business or at reasonable times if ordinary hours of business are not kept. The record shall be maintained at the location that the business is conducted for one year following the date of the transaction.

Source: SL 2008, ch 179, § 3.

2

34A-6-111. Copies of scrap metal business records--Report of lost or stolen nonferrous metal property. If a copy of the record of the transaction is requested by a law enforcement officer, a scrap metal business shall furnish a full, true, and correct transcript of the record from the purchase or receipt of the nonferrous metal property. This record shall be provided or transmitted to the applicable law enforcement agency within two business days.

If the scrap metal business has good cause to believe that any nonferrous metal property in the business's possession is lost or stolen, the scrap metal business shall promptly report that fact to a law enforcement officer, together with the name of the owner, if known, and the date of transaction and the name of the person from whom it was received.

Source: SL 2008, ch 179, § 4.

2

34A-6-112. Hold on nonferrous metal item suspected to be lost or stolen. If the scrap metal business is notified by a law enforcement officer that an item of nonferrous metal property has been reported as stolen, a scrap metal business shall hold that property intact and safe from alteration, damage, or commingling, and shall place an identifying tag or other suitable identification on the property. The scrap metal business shall hold the property for a period of time as directed by the law enforcement agency up to a maximum of ten business days.

A law enforcement officer may not place on hold any item of nonferrous metal property unless that law enforcement agency reasonably suspects that the property is a lost or stolen item. Any hold that is placed on the nonferrous metal property shall be removed within ten business days. If the property on hold is determined not to be lost or stolen, the nonferrous metal property shall be returned to the owner or released.

Source: SL 2008, ch 179, § 5.

2151 (3)

Testimony of Harlan Fuglesten
North Dakota Association of Rural Electric Cooperatives
Before the Senate Judiciary Committee
SB 2151
January 21, 2013

Mr. Chairman and members of the Committee: My name is Harlan Fuglesten with the North Dakota Association of Rural Electric Cooperatives. I am here this morning to testify in support of SB 2151. There have been legislative efforts in many states recently to crack down on theft of copper and other metals by giving law enforcement the tools to investigate and apprehend perpetrators when they sell or attempt to sell the stolen property. Throughout the country electric cooperatives have joined in coalitions to enact tougher laws to address scrap metal theft, which a 2009 survey found cost electric utilities more than 60 million dollars in a 12 month period. More importantly, copper theft can jeopardize the safety of workers and the general public when thieves remove copper wire and other scrap metal from substations or other utility facilities.

Copper theft may be especially a problem for rural electric cooperatives which are often the victims of copper theft because their many rural outposts and substations are inviting targets for copper thieves. But copper thieves can also be quite brazen. Last June, Dakota Valley Electric Cooperative's well-lit Wahpeton Outpost along Hwy 13 west of the City was hit by copper thieves. These thieves pried open the overhead doors during the night and used the co-op's hoist to take over $27,000 worth of copper ground wire. The perpetrators have not yet been caught. The Northern Plains Electric co-op outpost near Rolla had two break ins last summer. During the first break in, thieves got away with over $9,300 of copper. The thieves also stole tools from the facility. In August, thieves got away with more than a thousand dollars

worth of copper. Now, both Dakota Valley and Northern Plains equip all their outposts with alarms that signal local law enforcement when a break in occurs.

But alarms are not the whole answer to the problem. We believe that discouraging metal theft by making the stolen property more difficult to sell and giving law enforcement better tools to apprehend the metal thieves is very important, and that is why we support SB 2151 and urge you to give it a "DO PASS."

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Movies

Raimi's 'Oz' gets the story right, if not the witches

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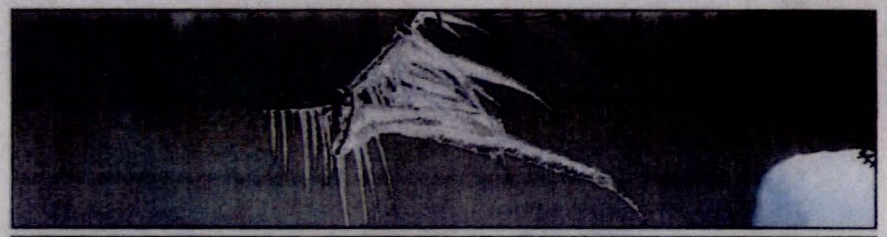

THURSDAY March 7, 2013

GRAND FORKS, NORTH DAKOTA NEWSSTAND PRICE, $1.50 Year 133, Issue 254 (c) 2013

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$110,000 copper caper

- Weekend theft of 13,223 pounds of wiring from GF business one of largest in area

By Stephen J. Lee
Herald Staff Writer

Thieves broke into a Grand Forks wire supply business over the weekend and stole 13,223 pounds of copper wiring worth more than $110,000, wholesale.

It's one of the largest such copper thefts, which have been increasing in the region, with a new twist: cutting out the middle man, said Tom Rosendahl, president of Dakota Supply Group, 715 S. 48th St., in the city's Industrial Park.

"In these other thefts, it's been electrical contractors hit," he said. "Now, they came right to a supplier like me, where they can get a lot more."

Dakota Supply, which has two dozen locations around the region, including in St. Paul, is a wholesale supplier of copper wire and other products to power utilities such as Minnkota Power and to local electrical contractors such as RBB Electric and Century Electric in Grand Forks, both of which have had similar, if smaller, burglaries within the past year.

A burglary at Fargo Electric Construction about two weeks ago involved $50,000 worth of copper wiring stolen.

Scrap prices for copper are about $3.50 per pound, a relatively high price, although below record levels

CAPER: See Page A6

Eric Hylden, staff photographer

◀ Tom Rosendahl, president of Dakota Supply Group in Grand Forks, looks at spools of copper wire similar to wire worth more than $110,000 that was stolen this past weekend from his warehouse in the Grand Forks Industrial Park.

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Waving from state

SLIME/

Continued from Page A1

its plants are shuttered. Company officials blame the abrupt falloff on a series of ABC News broadcasts that began last March — stories that repeatedly called its product "pink slime."

BPI hired a high-powered Chicago trial lawyer and in September slapped the network, lead anchor Diane Sawyer and other defendants with a 27-count lawsuit that seeks at least $1.2 billion in damages — about one-fifth of the fiscal 2012 net income of American Broadcasting Co. parent Walt Disney Co. Now, the case, which many observers initially wrote off as a public relations ploy by a desperate company, is shaping up as one of the most high-stakes defamation court battles in U.S. history.

The court fight could put modern television journalism on trial, and highlight the power of language in the Internet Age. In the wake of the reports on "World News with Diane Sawyer," the term "pink slime" went viral.

ABC denies the allegations in the lawsuit and is seeking to have it thrown out. The network and its lawyers at Washington D.C. law firm Williams & Connolly declined to comment on the case. In court papers, the network argues that the lawsuit is a bid by BPI to chill media coverage of the food industry.

Unflattering light

The case also could shine an unflattering light on BPI. Many consumers find the notion of processed beef unsavory, and the lawsuit could open the door to the company former U.S. Attorney in Chicago.

But, Webb contends, ABC's use of "pink slime" so many times — combined with alleged misstatements and omissions — made consumers believe the company's beef was something foul.

That's led lawyers for ABC and BPI to pull out their dictionaries in a duel over the definition of slime.

BPI's lawyers point to the Oxford Dictionary, which describes slime as a "moist, soft, and slippery substance, typically regarded as repulsive," and the American Heritage Dictionary, which calls it "vile or disgusting matter."

But ABC's lawyers, in their motion to dismiss the case, argued that slime is a fitting description of the company's product. They point to "more neutral" definitions of the term, citing another entry in the American Heritage Dictionary that calls slime a "thick, sticky, slippery substance."

Twitter's role

BPI's lawsuit cites other examples of what the company calls misleading and sloppy reporting by the news network.

Among them Twitter exchanges between Jim Avila, the lead ABC reporter on the story and a defendant in the case, and meat industry officials and other critics of his reporting.

One of his tweets has become central to BPI's claims that the network falsely stated that LFTB is not meat. In that tweet last March, Avila wrote in a reply to a critical viewer that "no one said this slime is dangerous. It's just not what it purports to be. Meat. And if it's in ground

CAPER/

Continued from Page A1

of well over $4 in recent years, Rosendahl said.

The theft of metal wiring has become so bothersome, U.S. Sen. Amy Klobuchar, D-Minn., said Wednesday that U.S. Attorney General Eric Holder has voiced support for her legislation to hit metal thieves harder by making federal cases out of them.

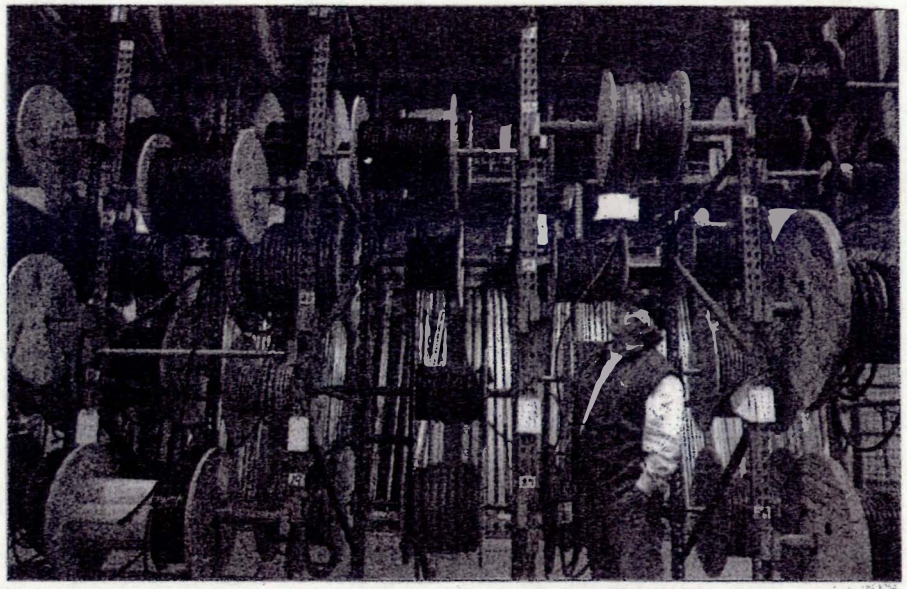
"Metal theft has jumped more than 80 percent in recent years, as thieves steal high-priced metal from critical infrastructure as well as businesses, homes, churches and even Minnesota veterans' graves, causing families pain and threatening public safety," Klobuchar said in a news release. U.S. Sen. John Hoeven, R-N.D., is a co-sponsor of her Metal Theft Prevention Act.

The National Insurance Crime Bureau reported that from 2009 to 2011, more than 25,000 insurance claims related to metal theft were filed, 81 percent more than in the previous two years. The total cost to the country from such thefts is estimated at more than $900 million.

Expert thieves

Business burglaries of copper wire seem to "go in spurts," said Grand Forks Police Sgt. Tom Jacobson. His investigators are contacting Fargo police for comparisons and looking for any possible witnesses or useful security videos from the Industrial Park over the weekend, he said.

If suspects are ever caught, the charges likely would be Class B felonies



Eric Hylden, staff photographer

▲ Tom Rosendahl, owner of Dakota Supply Group, looks at spools of wire that are similar to ones stolen this past weekend from his Grand Forks business.

were limited mostly by the load limits on their trailer or truck.

Other thefts

Rosendahl has been with Dakota Supply for 39 years, and this sort of big theft is a first for him.

But he's not alone.

"Last March, we had $30,000 worth of copper wire stolen out of our shop ... in the same Industrial Park," said Brian Harris, owner of Century Electric, only two blocks away from Dakota Supply, at 915 48th St. N. "In Grand Forks, you don't think that would happen."

Chad Benson, an owner of RBB Electric, which has locations in Bismarck, Fargo and Crookston as well as at 1123 N. 51st St., Grand Forks, said Dakota Supply is one of that off pretty easily."

Benson said he thinks "it was some type of delivery driver or somebody who has been in the building before. You kind of have to know these bars were on the door in order to be able to pop them."

Rosendahl said he isn't so sure, thinking anyone could figure what businesses have inventories of copper wire and use the same technique breaking in.

Prevention is key

Because of the difficulty of recovering stolen wire, much less solving the cases, the best practice is prevention by businesses ponying up for better security, including burglar alarms and surveillance cameras, Lt. Vettel said.

petty pilfering of a tool here and there. After the Flood of '97, an employee snuck off with a couple of specially ordered generators. "We're still getting payments from him," Rosendahl said.

It wasn't long ago, he left supplies sitting outside overnight, he said. And it was commonplace, until a few years ago, for contractors to leave spools of copper wire sitting overnight, over weekends, at job sites. Now, things are boxed up and locked up.

Industry response

As in most such thefts, his company's insurance covered the loss, Rosendahl said.

Right away Monday, his employees ordered replacement wire, due in Friday, so

its p[illegible]es that could be use[illegible]r litigation.

Bi[illegible]ders Eldon and Regina Roth say they plan to pursue their fight against ABC even if it takes years and tens of millions of dollars in legal fees.

"We have to do this," Eldon Roth said. "We have no other choice."

The lawsuit, originally filed in South Dakota state court, is hinged partly on a state product-disparagement statute designed to protect farming interests. Twelve other states have similar laws — dubbed "veggie libel" measures by critics — but they have rarely been invoked.

Under the South Dakota version of the law, plaintiffs must show that defendants publicly spread information they knew to be false, and stated or implied "that an agricultural food product is not safe for consumption by the public."

For BPI to prove the defamation piece of its case, it would need to show that the network negligently reported a false statement of fact that injured its reputation. If BPI is deemed by the court to be a public rather than a private figure in the legal sense, it would have a higher bar to cross: The company would need to prove ABC knew the facts it was reporting were false or it recklessly disregarded the truth.

While the case is in the early stages, the network appears to have a legal leg-up on both counts: ABC never said BPI's product is dangerous, and courts have repeatedly offered broad protections for journalists in the course of their work.

But by calling a food product "slime" 137 times over the span of nearly four weeks on its newscasts, its website and on Twitter, according to BPI's tally, did ABC make the public think LFTB was unsafe? If, as BPI alleges, ABC shrugged off information that refuted parts of its reporting, did it act recklessly, and [illegible] therefore be held li[illegible]

their court papers that this "single brief statement" was directed at "a very limited audience" and should be understood as protected opinion.

The beef processor has also accused the network of ignoring comments and research from experts who provided a more positive view of BPI's product.

In its lawsuit, BPI described a telephone interview it said Avila conducted with an agricultural food-safety consultant, David Theno. According to the lawsuit, Theno told Avila that BPI's process was safe, but the reporter told him he wasn't credible and hung up on him.

Avila, through an ABC spokesman, declined to discuss those phone calls.

Theno's comments were never used in the broadcasts.

Struggles

Today, the U.S. meat industry has changed how it makes ground beef, turning to more expensive types of beef trimmings and other parts of the beef carcass. At the same time, retail prices for ground beef are soaring as cattle ranchers and beef packers struggle with elevated feed prices resulting from last summer's drought in the Midwest.

Cargill, the world's largest ground beef producer, said it, too, has seen an impact on its business from news stories and social media chatter about "pink slime." Cargill makes a product similar to BPI's, though it relies on different technology and on citric acid, rather than ammonium hydroxide, as a processing agent to kill potential pathogens.

Last spring, Cargill told Reuters, it saw an 80 percent drop in production volume of finely textured beef. Though its production volume is still far less than a year ago, a company spokesman said demand is slowly returning.

[illegible] a penalty of up to 10 y[illegible] prison.

"Copper wire thefts have been an issue for us for a number of years," said Fargo Police Lt. Joel Vettel. The Fargo Electric job was the third one at the same business in about a year, he said. The thieves are getting more organized, he said.

Rosendahl said the burglars that hit Dakota Supply were professional in their own right.

It happened between Saturday afternoon, when the last worker left the premises, and Monday morning when the theft was discovered as soon as the doors opened.

"They pried this door open," Rosendahl said, showing how thieves likely got one garage-style door up, got inside to open another similar door where they had backed up some sort of trailer or truck to the loading dock, and loaded up.

"It had to be at least two guys, probably three or four," Rosendahl said, showing some of the empty shelves. "They knew what they were after."

They used his forklift to grab some pallets of coiled copper wire from the top shelf. They also grabbed boxes of smaller gauge wire.

"All sizes and shapes," he said.

But they knew enough to get some of the heavy-duty wire, worth up to $7.50 a foot.

Cheap aluminum wire, that looks similar inside the plastic insulation, was left undisturbed.

Gleaming copper tubing was left leaning against a rack.

"The layman wouldn't know this," Rosendahl said, pointing out that the "copper-clad steel" grounding rods really contain little copper despite their appearance.

"They took about half our inventory of copper wire," he said. He figures they about nine months ago. "We lost about $52,000 of copper wire," he said, in much the same way.

"They somehow dismantled the (security) bars we have across our walk-in doors," he said. "They were able to pop the door jams, get in, then, the same thing as at Dakota Supply. They pulled my vehicles out, used the forklift to load up our wire."

Benson, like Rosendahl and Harris, doesn't hold out much hope of seeing the crimes solved because copper wire does not have "DNA" that can positively identify a particular batch.

"It's pretty much a generic number per the wire manufacturer, and whether it comes to Grand Forks or Salt Lake City, Utah, it all comes out with the same stamps," Benson said. "It's pretty hard to prove it's your wire."

Rosendahl said the only mark his company left on the wooden reels, for example, is a paper tag. "You can take

bureau that provides expert assessments to local businesses seeking help on how to upgrade their security.

Benson is a little sheepish about RBB's lack of security before the theft.

"The dumb thing is we sell and install security camera systems, but I didn't have one. Never had one installed," he said.

That is, until the burglary.

"We have got 'em now," he said. "We have 16 cameras that watch about every square inch of the building."

Harris said he, too, installed such cameras after his burglary experience, plus alarms.

In fact, he checked his video from this past weekend, but could not pick up any traffic on 48th Street at night that might have been the Dakota Supply burglars.

Rosendahl is belatedly installing cameras and alarms.

"I like to believe in the goodness of my fellow man," he said with a rueful smile.

Before this, it was some

But Ro[illegible] is not let[illegible] ting this d[illegible]

He has p[illegible] a $5,000 reward for information leading to an arrest of the burglars. At a regular meeting Tuesday night of the Grand Forks Builders and Trade Exchange, he told a rapt audience of the crime as a warning to all.

"We want to make the public aware of this," he said, because the nearly $1 billion cost every year of such metal thefts gets pushed to consumers in higher construction and repair costs.

"These thefts hurt everyone because we all end up paying for them together," Rosendahl said in his news release. "It's not right, and we're going to fight for our customers. We're going to rally the trade industries and their suppliers. We're going to raise the awareness of this problem, and we're going to take a proactive stance to prevent this from happening again."

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07 March 2013

ND State & Local Intelligence Center

HotSheet

For Law Enforcement

The following may be protected under state law (N.D.C.C. Section 44-04-18.7) or applicable federal laws and may be withheld.

(U//LES) – Burglary and Theft of Copper Wire

A burglary took place between 1130 hours Saturday, March 2nd and 0719 hours Monday, March 4th at Dakota Supply Group (DSG) in Grand Forks. Taken during the burglary were large spools of copper wire. The building has no security system or cameras and at this time there is no video from surrounding businesses. Also, due to the recent snow storm over the weekend, vehicle tire tracks and suspect footprints were covered.

Investigators believe entry was gained to the building by the suspect(s) prying open an overhead door just until the opening was large enough to allow someone to crawl inside. Once inside, it is believed that the suspect(s) opened a walk through door and then another overhead door to load the spools of wire. The suspect(s) used pallet jacks, hand carts and a forklift to move the items out of the building. It is believed that the weight of the spools of wire taken was close to 30,000 lbs. so a larger moving truck or semi-truck would have been used.

If any agency has information regarding this burglary, or has reports of similar burglaries, please contact the Grand Forks Police Department at 701-787-8000

CRIME SCENE DO NOT CROSS CRIME SCENE DO NOT CROSS CRIME SCENE DO NOT CROSS

ND SLIC Request for Information/Case Support

email: **NDSLIC@nd.gov** NDSLIC : (866) 885-8295

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How to lighten you uggage load, SHESAYS

The Forum

OF FARGO-MOORHEAD

RLY EDITION

SATURDAY, MARCH 2, 2013

INFORUM.COM

mprovements to the transport

ORECAST: Page A5

Forum News Service file photo / John Stern

Oil activity stretches across the northwest part of North Dakota including along Lake Sakakawea near New Town as seen July 12, 2009.

incident underscored the need for a plan to protect Lake Sakakawea and the Missouri River.

a plan in place to take care of her."

SAKAKAWEA: Page A8

Copper thefts take their toll on Fargo-Moorhead

Losses, security improvements cost thousands

By Emily Welker
ewelker@forumcomm.com

FARGO – Driven by high resale prices, steady thefts of copper and metal from area businesses have cost area business owners thousands in both losses and in security improvements.

One Fargo businessman said he was hit three times by metal thieves in the past year and a half. Thieves have broken in through the door, torched through an old safe and stolen about $40,000 worth of metal, he estimates. One burglary was on Christmas Eve, he said, when thieves knew no one was minding the store.

THEFTS: Back Page

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$1.50
(Suggested retail price)

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Today's weather

▲26°
▼18°

Mostly cloudy

Details, D6

Births A9
Classifieds ..... E, F
Comics B5
Crosswords B5, F5
Metro/State A3, A6-8
Obituaries A9
Opinion A4

THEFTS

From Page A1

Two of the break-ins have been traced back to people who used to work for him.

"You feel violated, obviously," said the man, who doesn't want himself or his business to be identified because he's worried it will make him more of a target.

"The thing that I worry about – insurance will cover the loss – but someone's using a forklift alone, unsupervised, and someone gets injured, lays there dying," he said. "You open yourself up to all kinds of issues."

Area police say as long as prices stay high and there is a market to fence stolen metal, the thefts seen over the past couple of years will be difficult to stop. Authorities don't track thefts by the type of item stolen, so there is no hard data on metal thefts. But area law enforcement officials say despite renewed efforts to combat them, metal thefts remain a common problem.

Fargo and Moorhead police increase patrols of businesses after reports of thefts, and they've tried to convince business owners to harden themselves as targets. Like any other burglar, copper thieves seek out the simplest jobs.

Fargo Lt. Joel Vettel said he recommends alarms, surveillance cameras and locks.

Vettel said one company, Fargo Electric Construction, didn't take police suggestions about how to tighten up security and was hit twice in a short period of time by copper thieves.

"I don't want to say they didn't follow through – but at the end of the day, you need to do more," said Vettel, noting the business was burglarized on Friday and the police weren't notified of the crime until Monday, which hampers their ability to respond. "Alarm systems are extremely important."

The owner whose business has been hit three times has already done a lot to protect himself as it is, he said, installing new fencing, security doors and barbed wire around the business, even cameras, at a cost of around $20,000 overall. "But they just wreck more stuff to get it," he said. Two doors down, at another business, he said, thieves did just that, cutting through the fencing.

Police say the best defense has been to make it more difficult for thieves to sell their stolen copper in the area and that they get good cooperation from in-town scrap metal dealers.

But with prices remaining high – at $3 to $3.20 a pound for copper, according to local scrap metal dealers, down from highs of as much as $4.50 a pound – that means thieves just go out of town to sell.

Jim Bernath, of Bernath Construction in Fargo, said he hears of local thieves taking their hauls all the way to Chicago or Denver.

The stolen copper market is lucrative enough that thieves aren't just willing to pay the cost of hauling the stolen goods out of town, where buyers are less likely to ask questions. They're also willing to take a hit on the sale cost overall.

Jim McCoy runs Valley Scrap Metal and J & M Truck Sales near Barnesville, Minn., and he said copper worth $50,000 a legitimate sale will only bring thieves about $10,000 to $17,000 when it's fenced.

McCoy, one of the scrap metal dealers local law enforcement says has done a lot to help them bring in shady sellers, agrees there's not much market locally for scrap metal that bears signs of being stolen. But with no serial numbers, it can be hard to tell.

"If I've got any doubt in my mind, I pick up the phone and call. I don't need money that bad I need to buy stolen stuff," he said.

McCoy's business is also covered by a Minnesota law that requires scrap metal dealers to get a copy of the seller's driver's license and a picture of the seller's car and license plate.

North Dakota doesn't have a similar law, but Fargo has a city ordinance that requires scrap dealers to keep records of what they've bought, who the seller is, where they live and how much money the scrap dealer paid for it.

A bill introduced in the North Dakota Legislature this year would require scrap dealers throughout the state to keep records similar to Fargo's city law. The bill, Senate Bill 2151, has passed the Senate but not the House.

Moorhead Police Chief David Ebinger said he is concerned recent thefts in the Twin Cities might show metal thieves are getting increasingly desperate and could be a sign of thing to come in Fargo-Moorhead.

Ebinger said he hears from colleagues there who say thieves are cutting into cars to steal their catalytic converters and into homes to steal their copper wiring.

Clay County Sheriff Bill Bergquist said the house thefts are not unheard of here – several flood buyout homes in Georgetown, Minn., were broken into by thieves who punched through the Sheetrock to yank out copper wiring and plumbing, wrecking their resale value.

Bergquist, Ebinger and the Fargo police are all strongly behind Minnesota Sen. Amy Klobuchar's proposal to make metal thefts a federally regulated offense. It would make it a federal crime to steal metal from critical infrastructure and would require all scrap metal dealers to keep detailed records for two years, require purchases of more than $100 to be done by check rather than cash and would make sellers declare in writing that they're authorized to sell the metals in question.

From 2009 through 2011, there were 25,083 insurance claims nationwide related to metal theft, an increase of 81 percent over claims made between 2006 and 2008, according to a report from the National Insurance Crime Bureau cited by Klobuchar. More than 96 percent of 2009-11 claims were for copper, according to the study.

That study reported only five claims in North Dakota and 224 claims in Minnesota over those three years, but local police say they've seen more metal thefts in the recent years.

Klobuchar, a Democrat, re-introduced the bipartisan bill Wednesday, a proposal Sen. John Hoeven, R-N.D., is co-sponsoring.

"It's really a necessary act, I think," Ebinger said. "We're still getting hammered."

Readers can reach Forum reporter Emily Walker at (701) 241-5541

AMERICA'S
★★★
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LINEUP

BISMARCK TRIBUNE
2-21-13

Man convicted in copper wire theft

By JENNY MICHAEL
Bismarck Tribune

A West Fargo man has been convicted of breaking into a Burleigh County electric shop and stealing copper wire as part of a copper wire theft ring.

Soran Kaka, 39, was found guilty by a jury at the Burleigh County Courthouse on Tuesday of Class C felony burglary and Class B felony theft of property. He will be sentenced following a presentence investigation, Assistant Attorney General Julie Lawyer said.

Co-defendant Joel Lumbreras pleaded guilty to the charges on Tuesday morning prior to Kaka's trial. Lumbreras also will be sentenced following a presentence investigation, Lawyer said.

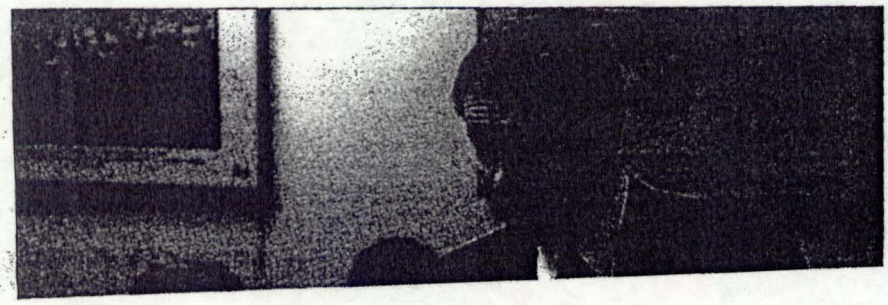
Another co-defendant, Jerry Dean, pleaded guilty Jan. 22. South Central District Judge Donald Jorgensen sentenced him to five years in prison with four years suspended and five years of supervised probation.

Kaka, Dean and Lumbreras were accused of stealing more than $50,000 worth of copper wire from RK Electric in Burleigh County on Aug. 2. Law enforcement officials from numerous agencies worked on the case, in which officers followed a vehicle owned by Kaka as it drove from Fargo to Dickinson and back to Bismarck. The officers then witnessed the burglary.

Kaka also faces a Class B felony criminal conspiracy charge in Cass County. He has not entered a plea in that case, in which he is accused of stealing $72,000 worth of copper wire from Bergstrom Electric in north Fargo on July 9. A van believed to have been involved in that case was identified as belonging to Kaka. Police obtained a warrant to put a GPS tracking device on the van, which aided them in following it to Bismarck in August.

(Reach Jenny Michael at 701-250-8225 or jenny.michael@bismarcktribune.com.)

SALES TAX TALK



Choreographers will showcase work at the Belle

Northern Plains Dance will present "Choreographers' Showcase: Unique. Local. Unexpected" at 7:30 p.m. Friday and at 2:30 and 7:30 p.m. Saturday at the Belle Mehus City

Jamestown Sun
2-26-13

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Copper wire stolen from Fargo firm

Forum News Service

FARGO — Thieves broke into a Fargo business and stole $50,000 worth of copper wire over the weekend, police said.

The theft at Fargo Electric Construction is believed to have happened between Friday and Monday morning, when it was reported about 7 a.m., Lt. Joel Vettel said.

After forcing their way into the building, the culprits moved the company's trucks out of the way to get at the wire, then loaded it using the company's skid-steer loaders, he said.

"Judging by the behavior, judging by what they got away with, how they had to do it, they had a significant amount of time inside the business," he said, adding, "The amount of time they spent in there certainly would indicate that they had knowledge that the alarm system either was not there or wasn't working."

No arrests have been made, and the investigation is ongoing, he said.

Three face charges of counterfeiting

Forum News Service

FARGO — Three men are in custody facing possible forgery charges after police said they connected them with a counterfeiting operation that passed thousands of dollars in fake bills.

Fargo police Lt. Joel Vettel said Thomas Porkpah Paye, 24, Marcus Yeah, 22, and Nyantey Gaylah, 24, all of Fargo, were arrested Friday on suspicion of facilitating forgery after businesses reported receiving suspicious-looking bills in higher denominations.

Vettel said police investigators, with the help of the Secret Service, identified the three suspects who he said had "washed" genuine $5 bills at various locations in the city, then altered them to look like higher-denomination ones.

"It's a significant case, not one or two, but multiple bills," said Vettel, adding up to at least $2,000 in losses to various businesses around the region, over the last several months or so.

Vettel said the "washing" technique isn't unusual for counterfeiters, although it may be locally.

Police are continuing to investigate whether other individuals were involved.

Vettel encouraged local businesses and their employees to take a more careful look at the $20, $50 and $100 bills they receive.

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TRIBUNE

2-28-13

Judge: Murder case should proceed

LISBON (AP) — A judge has ruled that the case against a Fort Ransom woman accused of battering her infant son to death should proceed.

Twenty-nine-year-old Jodi Lindvall was originally charged with murder and child abuse for the death of 22-month-old Bentley Lindvall, who died Sept. 22.

Prosecutors said an autopsy determined the boy had been physically abused and died of a head injury. Lindvall told authorities her son hit his head while she was struggling to change his diaper.

Ransom County Judge Jay Schmitz ruled there's probable cause for the murder case, but dismissed child abuse charges.

Lindvall's arraignment is scheduled March 6.

Justices rule against Roland Riemers

GRAND FORKS (AP) — The North Dakota Supreme Court has ruled against the man who wanted to be the North Dakota Libertarian candidate for governor.

The state had ruled earlier that Roland Riemers of Grand Forks didn't qualify for the ballot because his lieutenant governor candidate didn't turn in the right paperwork.

Riemers argued that the Democratic and Republican candidates for governor didn't fill out their paperwork correctly either — and they should have been dropped from the ballot.

The Supreme Court said in a ruling released Tuesday that there's no evidence the state discriminated against Riemers.

Ex-tribal officer gets probation

MINOT (AP) — A former Three Affiliated Tribes law enforcement officer accused of harboring two men who escaped from a New Town jail has been sentenced to probation.

Jessica Folden was charged in federal court with hindering law enforcement. The charge carries a maximum penalty of one year in prison.

Authorities said Jake White Body and Brandon Young Wolf were at Folden's residence after they escaped from the Gerald Tex Fox Justice Center in New Town last May.

Folden allegedly lied to officers about the whereabouts of the fugitives and refused to let officers search her residence for several hours.

The two suspects were eventually apprehended.

U.S. District Judge Daniel Hovland sentenced Folden to 18 months of probation.

Thieves stole $50K in copper wire

FARGO (AP)— Police say thieves broke into a Fargo business over the weekend and stole $50,000 worth of copper wire.

The theft at Fargo Electric Construction was reported at 7 a.m. Monday.

Police said the suspects forced their way into the building, moved the company's trucks out of the way, and used the company's skid steers to load the wire.

No arrests have been made.

Prosecutors: It's not free speech

MINNEAPOLIS (AP) — Prosecutors say a former Minnesota nurse convicted of going online and encouraging two people to kill themselves was not exercising his right to free speech.

Fifty-year-old William Melchert-Dinkel was convicted in 2011 of two counts of aiding suicide. His attorney is asking the Minnesota Supreme Court to overturn those convictions, saying Melchert-Dinkel's actions were protected, and that he did not directly participate in the suicides of an English man and a Canadian woman.

In documents filed Tuesday, Rice County prosecutors said Melchert-Dinkel played an integral role, giving the vic-

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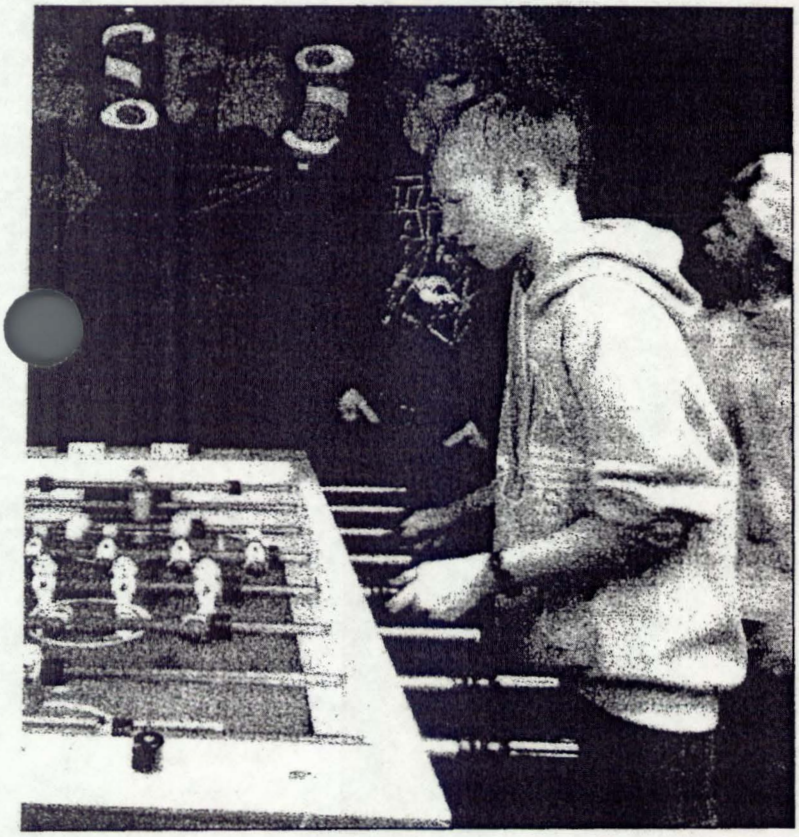
proved on Senate Bill 2240.

A lengthy discussion took place on the House floor, becoming emotional at times as representatives questioned parameters, called for change and pleaded for helping the victims.

Kathy Hogan (D-Fargo) said she voted for the bill in hopes the Senate would fix it. She said she didn't like that jail time was lowered and blood alcohol content levels were raised. Rep. Jim Kasper (R-Fargo) expressed concern over the amount of jail time and the possibility a first-time offender can

SEE **DUI**, PAGE **A2**

y working with teens



Photos courtesy of Dennis Jensen

very Wednesday for Youth for Christ. Pictured are, from left, Zack Oster, Landen Ruis, endra Taylor is all smiles while riding a horse during a Youth For Christ outing near

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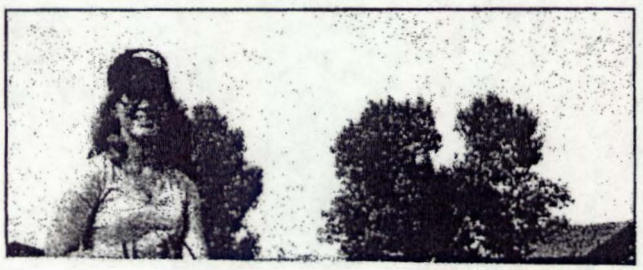


Two men jailed for stealing copper

BY JENNA EBERSOLE
WILLISTON HERALD

Two men from California and Washington were arrested Monday for a theft of $40,000 worth of copper wire.

The Williams County Sheriff's Office arrested James Wallace of California and Shane Dechene of Washington in connection with the theft on Feb. 12 from JMAC Resources of Williston, according to a press release. The men are being held on Class B felony theft of property charges as well as a Class C felony charge of conspiracy to commit theft.

Det. Caleb Fry said the theft of copper wire is very common around the area, with some sitting in the areas of work sites and other wire stolen by cutting off sections of it at rig sites.

"We're seeing a lot," Fry said.

"They were getting it from everywhere," Sheriff Scott Busching said of the JMAC theft.

The investigation into the theft is ongoing.

Two bars

WILLISTON HERALD
2-28-13

PROPOSED AMENDMENTS TO SENATE BILL NO. 2151 (2) 3-12-13

Page 1, line 1, remove "and"

Page 1, line 2, after "penalty", insert "; to provide an effective date; and to declare an emergency"

Page 3, after line 30, insert:

"**SECTION 5. EFFECTIVE DATE.** This Act becomes effective on May 1, 2013."

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

(3) 3-12-2013
2151

Mr. Chairman and members of the Industry, Business and Labor Committee:

My name is Phil Pfennig. I am a Chief Agent of the North Dakota Bureau of Criminal Investigation.

I am here today to give testimony in support for Senate Bill 2151.

The theft of "salvage or scrap" metals is becoming a big business. Thieves make late night visits to construction sites – to steel copper or aluminum wire, coil or tubing; or to automotive stores or mechanic shops – to steel lead batteries or catalytic converters which are loaded with small amounts of precious metals such as platinum, palladium and rhodium and used to reduce exhaust emissions. The thieves then disappear unnoticed. Theft reports are made the next day and local law enforcement often have very little clues left behind.

Just 5 years ago in the first quarter of 2008, metal prices had increased substantially, with scrap prices increasing 88%. Metal prices had been going up for four or five years, significantly spiking in 2005 before slowly creeping up through the end of 2007, when prices skyrocketed.

Prices have continued to rise and today command a high price because materials are difficult to come by and the demand for metals is high. Once upon a time tire stores gave away buckets of used wheel weights. Now, they are worth keeping to be sold as scrap metal.

Highlighting just a few cases the Bureau of Criminal Investigation has investigated over the last year:

- $10,000 in aluminum wire in north central North Dakota.
- $6,000 in car parts and copper tubing used in solar heating south eastern North Dakota.
- $60,000 in copper wire stolen in large spools from south central North Dakota.
- A group suspected of being involved in a theft ring originating out of Fargo was the focus of a surveillance in the middle of the night as they traveled from Fargo to Dickinson and back to Bismarck where they were witnessed stealing metals from a construction site (photos).

3 pg 2

Commodity Closing Prices

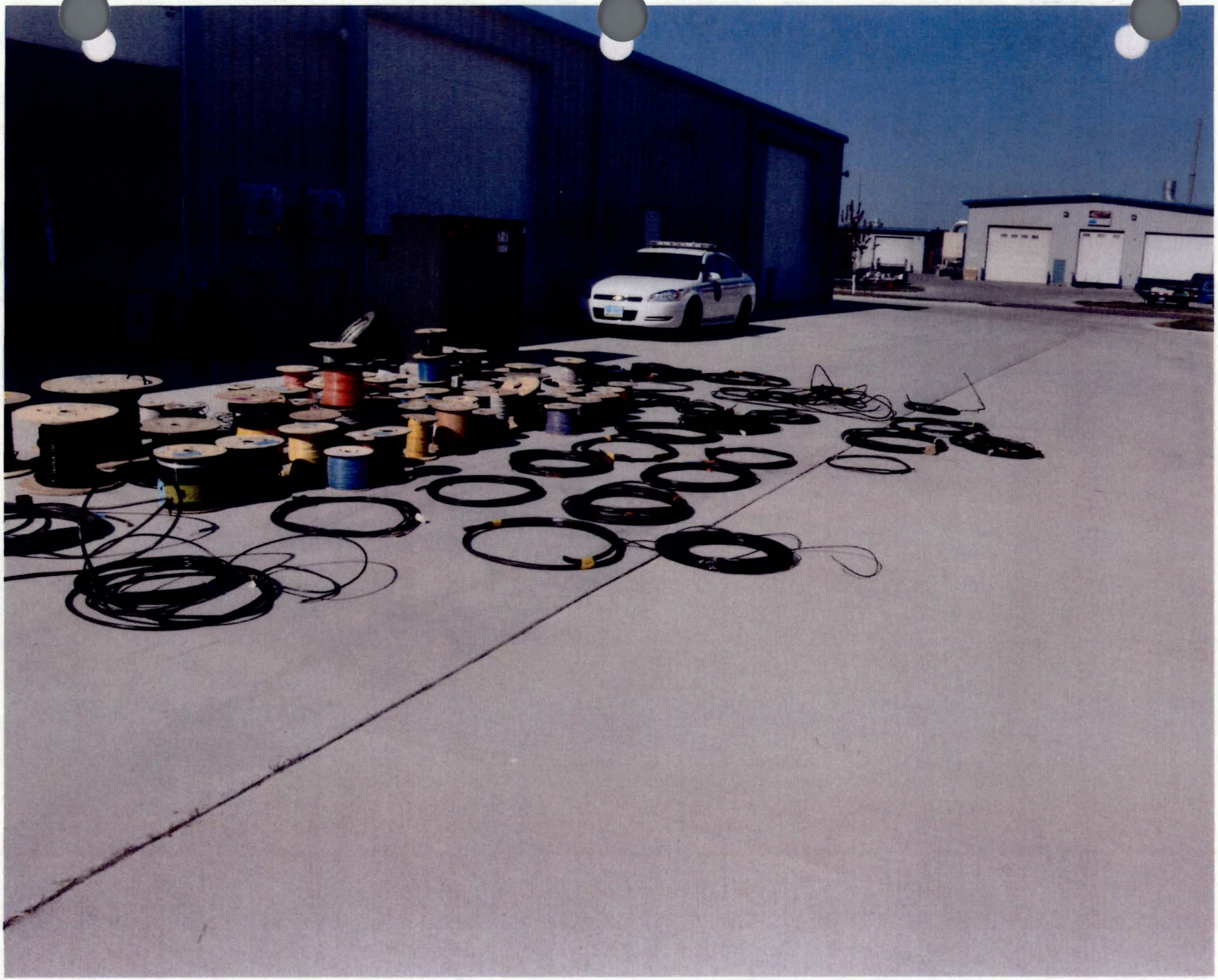
			chg	%
Precious Metals				
Gold	USD/oz	1,581.93	3.42	0.22%
Silver	USD/oz	28.99	0.03	0.10%
Platinum	USD/oz	1,604.00	3.5	0.22%
Palladium	USD/oz	779	-2	-0.26%
Iridium	USD/oz	1,025.00	0	0.00%
Rhodium	USD/oz	1,250.00	0	0.00%
Ruthenium	USD/oz	85	0	0.00%
Base Metals				
Aluminum	USD/lb	0.87	0.01	0.87%
Copper	USD/lb	3.51	0.03	0.77%
Lead	USD/lb	1	0.01	1.29%
Nickel	USD/lb	7.51	0.02	0.27%
Tin	USD/lb	10.77	0.1	0.98%
Zinc	USD/lb	0.89	0	0.36%
Steel Raw Materials				
Cobalt	USD/lb	11.48	-0.09	-0.78%
Ferro Chrome	USD/kg	2.48	0	0.00%
Iron Ore Fines	USD/t	122.3	0	0.00%
Iron Ore Pellets	USD/t	144.9	0	0.00%
Manganese	USD/kg	2.4	0	0.00%
Molybdenum Oxide	USD/lb	11.11	-0.09	-0.81%
Nickel	USD/lb	7.51	0.02	0.27%
Tin	USD/lb	10.77	0.1	0.98%
Zinc	USD/lb	0.89	0	0.36%
Minor Metals				
Cobalt	USD/lb	11.48	-0.09	-0.78%
Magnesium	USD/kg	2.9	0	0.00%
Manganese	USD/kg	2.4	0	0.00%
Molybdenum Oxide	USD/lb	11.11	-0.09	-0.81%
Tantalite Ore	USD/kg	273.37	0	0.00%
Energy Minerals				

3 pg 3

Crude Oil	USD/bbl	109.96	0.08	0.07%
Natural Gas	USD/mmbtu	3.63	0.06	1.68%
Thermal Coal CAPP	USD/st	58.43	0	0.00%
Uranium Oxide	USD/lb	42.25	0.25	0.60%
Industrial Minerals				
Phosphate Rock	USD/t	482.3	0	0.00%
Potash	USD/t	170	0	

Photo's of an investigation involving a very organized group from Fargo that were traveling along the I 94 corridor and Hwy 85 targeting businesses and stealing wire. The group had a contact inside a shipping company that knew when the wire would be delivered and where.

THHN



House Industry, Business and Labor Committee
Senate Bill 2151
Testimony of Mike Reitan, Assistant Chief, West Fargo Police

(4) 2151
3-12-2013

Good Morning Chairman Keiser and members oft he committee. For the record my name is Mike Reitan, Assistant Chief ofthe West Fargo Police Department. I am testifying today in support of Senate Bill 2151. The bill before you today is meant to assist in the apprehension of those individuals responsible for the theft of recyclable metals in the state of North Dakota.

On a relatively routine basis the officers of the West Fargo Police Department respond to the report of electrical wire, scrap metals or motor vehicle parts being stolen. The items stolen have been stored in the open upon the owner's property, within fenced areas and within locked buildings. On some occasions the thief has used the owner's fork lift or loader to assist in making off with the property.

Within West Fargo the areas typically targeted are new construction areas, body shops, vehicle salvage yards and manufacturers. While most items stolen would be considered scrap material, we are also seeing new electrical wire and copper plumbing pipe being taken from construction sites or from the contractor's building. I have heard reports from areas of rural North Dakota that farm sites have also experienced thefts. Overhead wiring, agricultural equipment and irrigation tubing are some of the items targeted.

The West Fargo Police Department has taken a pro-active approach to deter and investigate this type of theft. Officers are instructed to increase their patrol of new construction areas. We check with the contractors to find out when electrical wiring and plumbing fixtures will be on the construction site. With the permission of the contractors the department has installed video equipment and portable alarms systems to assist in apprehending those responsible for the thefts. But it is not always enough.

Scrap metal needs to be sold somewhere for the thief to experience a financial gain. Where the stolen goods are typically sold is to a scrap metal dealer. By enlisting the assistance of scrap metal dealers through the provisions of Senate Bill 2151 law enforcement officers can be afforded the opportunity to review records relating to transactions involving scrap metals and identify individuals selling scrap metals in the community. Such assistance is necessary for law enforcement to be able to curb the theft of recyclable materials.

As a reference, I have attached the more restrictive requires of Minnesota Statute 325E.21 Dealers in Scrap Metal; Records, Reports and Registration. I have also included South Dakota Codified Law 34A-6-108 through 112 relating to scrap metal dealers.

While the bill before us is not as restrictive as that found in Minnesota or South Dakota the draft bill is certainly a step in the right direction. I ask for your support in the passage of Senate Bill 2151. Thank you and I would be willing to take any questions you may have.

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2012 Minnesota Statutes

325E.21 DEALERS IN SCRAP METAL; RECORDS, REPORTS, AND REGISTRATION.

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Law enforcement agency" or "agency" means a duly authorized municipal, county, state, or federal law enforcement agency.

(c) "Person" means an individual, partnership, limited partnership, limited liability company, corporation, or other entity.

(d) "Scrap metal" means:

(1) wire and cable commonly and customarily used by communication and electric utilities; and

(2) copper, aluminum, or any other metal purchased primarily for its reuse or recycling value as raw metal, including metal that is combined with other materials at the time of purchase.

(e) "Scrap metal dealer" or "dealer" means a person engaged in the business of buying or selling scrap metal, or both, but does not include a person engaged exclusively in the business of buying or selling new or used motor vehicles or motor vehicle parts, paper or wood products, rags or furniture, or secondhand machinery.

Subd. 1a. **Purchase or acquisition record required.** (a) Every scrap metal dealer, including an agent, employee, or representative of the dealer, shall keep a written record at the time of each purchase or acquisition of scrap metal. The record must include:

(1) an accurate account or description, including the weight if customarily purchased by weight, of the scrap metal purchased or acquired;

(2) the date, time, and place of the receipt of the scrap metal purchased or acquired;

(3) the name and address of the person selling or delivering the scrap metal;

(4) the number of the check or electronic transfer used to purchase the scrap metal;

(5) the number of the seller's or deliverer's driver's license, Minnesota identification card number, or other identification document number of an identification document issued for identification purposes by any state, federal, or foreign government if the document includes the person's photograph, full name, birth date, and signature; and

(6) the license plate number and description of the vehicle used by the person when delivering the scrap metal, and any identifying marks on the vehicle, such as a business name, decals, or markings, if applicable.

(b) The record, as well as the scrap metal purchased or received, shall at all reasonable times be open to the inspection of any law enforcement agency.

(c) No record is required for property purchased from merchants, manufacturers or wholesale dealers, having an established place of business, or of any goods purchased at open sale from any bankrupt stock, but a bill of sale or other evidence of open or legitimate purchase of the property shall be obtained and kept by the person, which must be shown upon demand to any law enforcement agency.

(d) Except as otherwise provided in this section, a scrap metal dealer or the dealer's agent, employee, or representative may not disclose personal information concerning a customer without the customer's consent unless the disclosure is made in response to a request from a law enforcement agency. A scrap metal dealer must implement reasonable safeguards to protect the security of the personal information and prevent unauthorized access to or disclosure of the information. For purposes of this paragraph, "personal

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Subd. 9. **Video security cameras required.** (a) Each scrap metal dealer shall install and maintain at each location video surveillance cameras, still digital cameras, or similar devices positioned to record or photograph a frontal view showing the face of each seller or prospective seller of scrap metal who enters the location. The scrap metal dealer shall also photograph the seller's or prospective seller's vehicle, including license plate, either by video camera or still digital camera, so that an accurate and complete description of it may be obtained from the recordings made by the cameras. The video camera or still digital camera must be kept in operating condition. The camera must record and display the accurate date and time. The video camera must be turned on at all times when the location is open for business and at any other time when scrap metal is purchased.

(b) If the scrap metal dealer does not purchase some or any scrap metal at a specific business location, the dealer need not comply with this subdivision with respect to those purchases.

History: *(10225) 1907 c 228 s 1; 1957 c 960 s 1; 1973 c 123 art 5 s 7; 1986 c 444; 2005 c 10 art 2 s 4; 2007 c 54 art 7 s 21; 2008 c 259 s 1*

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34A-6-108. Definition of terms. Terms used in this section and §§ 34A-6-109 to 34A-6-112, inclusive, mean:

(1) "Industrial or commercial account," any person or business, including a scrap metal business, operating from a fixed location, that sells nonferrous metal to a scrap metal recycler pursuant to a contractual arrangement or agreement;

(2) "Law enforcement officer," any law enforcement officer as defined in § 23-3-7;

(3) "Nonferrous metal property," any metal property for which the value of the metal property is derived from the property's content of copper, brass, aluminum, bronze, lead, zinc, platinum, rhodium, palladium, or nickel, or any of their alloys. Aluminum does not include any food or beverage containers, except for a beer keg;

(4) "Record," a paper, electronic, or other method of storing information;

(5) "Scrap metal business," any scrap metal supplier, scrap metal recycling center, or scrap metal processor;

(6) "Transaction," a pledge to buy, the purchase of, or the trade for any nonferrous metal property by a scrap metal business from any person. A transaction does not include a sale or trade involving any industrial or commercial account.

Source: SL 2008, ch 179, § 1.

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34A-6-110. Scrap metal business records open to inspection by law enforcement officers. The record required by §§ 34A-6-108 to 34A-6-112, inclusive, shall be open to the inspection of any law enforcement officer at all times during the ordinary hours of business or at reasonable times if ordinary hours of business are not kept. The record shall be maintained at the location that the business is conducted for one year following the date of the transaction.

Source: SL 2008, ch 179, § 3.

Chapter 34A-6

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34A-6-112. Hold on nonferrous metal item suspected to be lost or stolen. If the scrap metal business is notified by a law enforcement officer that an item of nonferrous metal property has been reported as stolen, a scrap metal business shall hold that property intact and safe from alteration, damage, or commingling, and shall place an identifying tag or other suitable identification on the property. The scrap metal business shall hold the property for a period of time as directed by the law enforcement agency up to a maximum of ten business days.

A law enforcement officer may not place on hold any item of nonferrous metal property unless that law enforcement agency reasonably suspects that the property is a lost or stolen item. Any hold that is placed on the nonferrous metal property shall be removed within ten business days. If the property on hold is determined not to be lost or stolen, the nonferrous metal property shall be returned to the owner or released.

Source: SL 2008, ch 179, § 5.

Chapter 34A-6

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Testimony of Harlan Fuglesten
North Dakota Association of Rural Electric Cooperatives
Before the House Industry, Business and Labor Committee
SB 2151
March 12, 2013

Mr. Chairman and members of the Committee: My name is Harlan Fuglesten with the North Dakota Association of Rural Electric Cooperatives. I am here this morning to testify in support of SB 2151. There have been legislative efforts in many states recent years to crack down on theft of copper and other metals by giving law enforcement the tools to investigate and apprehend perpetrators when they sell or attempt to sell the stolen property. Throughout the country electric cooperatives have joined in coalitions to enact tougher laws to address scrap metal theft, which a 2009 survey found cost electric utilities more than $60 million in a 12 month period. More importantly, copper theft can jeopardize the safety of workers and the general public when thieves remove copper wire and other scrap metal from substations or other utility facilities.

Copper theft may be especially a problem for rural electric cooperatives which are often the victims of copper theft because their many rural outposts and substations are inviting targets for copper thieves. But copper thieves can also be quite brazen. Last June, Dakota Valley Electric Cooperative's well-lit Wahpeton Outpost along Hwy 13 west of the City was hit by copper thieves. These thieves pried open the overhead doors during the night and used the co-op's hoist to take over $27,000 worth of copper ground wire. The perpetrators have not yet been caught. The Northern Plains Electric co-op outpost near Rolla had two break-ins last summer. During the first break-in, thieves got away with over $9,300 of copper. The thieves also stole tools from the facility. In August, thieves got away with more than a thousand dollars

worth of copper. Now, both Dakota Valley and Northern Plains equip all their outposts with alarms that signal local law enforcement when a break-in occurs.

But alarms are not the whole answer to the problem. We believe that discouraging metal theft by making the stolen property more difficult to sell and giving law enforcement better tools to apprehend the metal thieves is very important, and that is why we support SB 2151 and urge you to give it a "DO PASS."