

Transcript Prepared by Clerk of the Legislature Transcribers Office
Urban Affairs Committee March 14, 2023

McKINNEY: Good afternoon. Today-- welcome to the Urban Affairs Committee. Today is March 14, 2023. I am Senator Terrell McKinney, the Chair of the Urban Affairs Committee. I represent District 11 in the Legislature, which is north Omaha. Before we start today, I'll ask each senator on the committee to introduce themselves starting at my right.

HARDIN: Senator Brian Hardin from District 48: Banner, Kimball, Scotts Bluff Counties.

DAY: Good afternoon. Senator Jen Day, Legislative District 49 in Sarpy County.

LOWE: John Lowe, District 37, which is Shelton, Gibbon, and Kearney.

BLOOD: Good afternoon. Senator Carol Blood representing District 3, which is western Bellevue and eastern Papillion, Nebraska.

McKINNEY: And our pages for today are Delane-- Delanie, is it Delanie? Sorry.

DELANIE NESS: Delanie.

McKINNEY: Delanie, sorry, and Katie, both political science majors at UNL. The, the committee legal counsel to my right is Elsa Knight, and the committee clerk to my left is Raquel Dean. Today and before all hearings to be heard they, they will be posted outside the hearing room. The senators introducing the bills will, will present first. Senators who serve on the committee are encouraged to ask questions for clarification. That said, the presenter and those testifying are not allowed to directly ask questions to senators on a committee. For purposes of accuracy, we ask that each presenter to state one's name, spell it, and state who you represent if not yourself. If you are planning to testify today, please fill out a testifier sheet that are on a table in the back of the room. Be sure to print clearly and fill it out completely. When it is your turn to testify, give the testifier sheet to the committee clerk or the page. If you do not wish to testify but would like to indicate your position on a bill, please complete the sign-in sheets on the back table. In your Urban Affairs Committee, we use the light system to promote maximum engagement of those wishing to express their position on each proposed legislation. The light system will generally be five minutes with the green light, one minute with the yellow light, and a red light which we'll as you to conclude. We will recognize proponents, opponents, and neutral testifiers. We will also acknowledge letters received from all

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concerned parties. Should you have handouts you wish to share, please share ten copies with the clerk or the pages. The clerk will then distribute any handouts to the committee. Following all proponents, opponents, and neutral testifiers, the bill's presenter will be given the opportunity to close and give final remarks. As a committee, we will work diligently to a give fair and full hearing. We will make every effort to accommodate special assistance and at this hearing we also ask you to be respectful of the process and to one another. And lastly, if you have a cell phone please turn it off or silence it. Thank you, Senator Conrad, you're welcome to open.

CONRAD: Thank you so much. Good afternoon, Chairman McKinney, members of the committee. My name is Danielle Conrad. It's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I'm here today representing north Lincoln's Fighting 46th Legislative District and I'm proud to introduce LB546. LB546 came to me by way of a constituent who is a proud operator of a historic bed and breakfast property here in the beautiful community of Lincoln. So after visiting with my constituent, I came to have a better understanding of some of the barriers that he was facing in his business in terms of being able to expand, for example, in particular food service offerings to the guests at their historic bed and breakfast. So you'll have a chance to get to meet Todd and learn more about his business and the incredible breadth of research that he conducted to try and identify a constructive solution to raise and address these issues moving forward after coming to an impasse with, with some of the local officials in Lincoln. I think Todd has done an outstanding job of presenting the issue, identifying solutions that we can take as a Legislature, and providing the right balance for consumer safety and a vibrant small business and tourism industry. The bill really does two things. The first part is definitional, where it changes the definitions in 81-2,242 regarding how we define a bed and breakfast and then it also amends Section of 81-2,929 [SIC--81-2,292] regarding the Pure Food Act to make updates and reforms to the types of food service operations that will be available within a bed and breakfast. So I urge your favorable consideration of the matter. I know you're going to enjoy hearing more about Todd's business and research as I have since Election Day and in preparation for this hearing and I'm happy to answer additional questions.

McKINNEY: Thank you. Are there any questions from the committee? Seeing none, thanks.

CONRAD: And, yes, I do think we should go tour this bed and breakfast together to get a better understanding of the issue. Yes. Yes. Just preemptively, yes.

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McKINNEY: Are there any proponents?

TODD KNOBEL: My name is Todd Knobel. That's spelled T-o-d-d K-n-o-b-e-l. I first want to thank Senator Conrad and Senator McKinney and the committee for-- Senator Conrad for sponsoring this bill and for the committee for listening to, to my concerns. Prior to purchasing the Spalding House in the summer of 2021, I conducted various municipal-- I contacted various municipal authorities to better understand what regulatory requirements would need to be met to operate the property as a bed and breakfast. After renovation work was all but completed, and contrary to my initial discussions with various regulatory authorities, I was informed that while the property could be offered to the public as a short-term rental, it could not serve hot meals. It was further explained that only a commercial establishment could offer hot meals, including a hot breakfast, and as such, the property would, among other things, need to have a sprinkler system installed that would cover every area of the house, including the basement. The requirement to install a sprinkler system was a requirement simply too burdensome to overcome for two main reasons. First, the cost to install such a system would be prohibitive for a small business like a bed and breakfast within an, with an estimated installation cost in the high tens of thousands of dollars. Second, installation of a sprinkler system would negatively impact the esthetics of the property, including the oak beams in the den and, and dining rooms. Regarding the importance of maintaining the historical significance of the property, I would note that the Spalding House is in the National Register of Historic Places and was first-- was, was the first house built south of South Street in Lincoln, Nebraska, on what is now Sheridan Boulevard, a location in Senator Conrad's district. It served as a demonstration home for the developer. At that time, it was Woods Bros. & Boggs and was one of the first homes in Lincoln to have electricity. Over the years, it served as a convent for the Sisters of the Blessed Sacrament and was a home to a University of Nebraska president. Nebraska has always been a place of reason where we listen to each other to craft laws that meet our mutual interest. I believe that LB546 strikes a balance between providing safeguards to the public while also removing impractical and unnecessary barriers. If there are those who feel the draft legislation goes too far in some areas, amendments covering such issues could be-- could address such concerns. Over the past months, we have undertaken considerable restoration work on the Spalding House, but much more remains to be done. Restoration work is often costly, as requires the retention of highly skilled professionals. Using the house to operate a bed and breakfast helps ensure that there

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will be sufficient resources to do things such as re-lead windows and restore oak veneer and repoint stonework and so on. Finally, I would note that there appears to be uneven enforcement of the current law, as it is doubtful that all bed and breakfast establishments that serve a hot breakfast have sprinkler systems covering 100 percent of their respective structures. This legislation will provide a framework to bring all such establishments into compliance, while also ensuring certain minimum safety standards are met. Thank you for taking the time to learn my concerns. If you have any questions, I would welcome them.

McKINNEY: Thank you. Are there any questions from the committee?
Senator Blood.

BLOOD: Thank you, Chair. Thank you for coming in today. I can tell you're really passionate about this. I got a quick question for you, because that will depend on whether I ask you the question or Senator Conrad when she comes back up. Did you help write the, the descriptions in the bill when it came to, like, the food service?

TODD KNOBEL: What I did is I went and I thought to myself, surely, other states are addressing this issue differently. So I spent two days at Love Library, and I can't say precisely, but I'm going to guess roughly about half the states have what is often known as a bed and breakfast act, and those acts vary widely. And I tried to take an eclectic approach of gathering that information, organizing in some fashion, and then I turned it over to Senator Conrad, shared my concerns and shared with her what I thought were some of the best practices, and she was kind enough to take the ball from that point, turn it over to the legal counsel that works with the drafting of bills, and we proceeded accordingly. Senator Blood, does that give you some understanding?

BLOOD: Yeah, kind of. I have to say I'm a big supporter of removing barriers for small businesses like this.

TODD KNOBEL: Um-hum.

BLOOD: But at the same token, I'm a little worried about some of the language in reference to the food.

TODD KNOBEL: OK.

BLOOD: But that doesn't mean that that's not something that can't be fixed.

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TODD KNOBEL: Exactly.

BLOOD: I mean, we certainly don't want people to visit Nebraska and leave with, with food poisoning.

TODD KNOBEL: Sure. Sure.

BLOOD: Right?

TODD KNOBEL: Sure.

BLOOD: And I see a few things that I'm a little concerned about, so.

TODD KNOBEL: Sure.

BLOOD: I appreciate your sharing that with me. Thank you.

TODD KNOBEL: Sure.

McKINNEY: Thank you. Are there any other questions? Senator Lowe.

LOWE: Where is the Spalding House located?

TODD KNOBEL: It's on 2221 Sheridan Boulevard.

LOWE: Thank you.

McKINNEY: Thank you. Any other questions? No? Thank you.

TODD KNOBEL: Thank you, Senator McKinney.

McKINNEY: No problem. Are there any other proponents? Are there any opponents?

SCOTT CORDES: Good afternoon, Chairperson McKinney and members of the Urban Affairs Committee. My name is Scott Cordes, Scott, S-c-o-t-t, Cordes, C-o-r-d-e-s. I am the State Fire Marshal. I'm here to testify in opposition to LB546. Under this proposal, the agency would use adopted fire code standards except in certain carved-out areas for facilities that classify as a bed and breakfast, where it would insert new requirements such as a provision to remove the requirement for a fire sprinkler system in facilities designated as a bed and breakfast. The State Fire Marshal Agency is required by Nebraska Revised Statute to adopt rules and regulations that generally conform to the requirements established in the National Fire Protection Association pamphlet, NFPA. It's a nationally recognized leader in fire protection, develops the requirements through a collaborative,

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consensus-based process that involves input from all affected parties, including entities such as fire professionals, architects, engineers, business owners, educational professionals, and many others. The adopted fire code in Nebraska requires sprinklers and facilities that allow for the overnight stay of six or more people. NFPA research shows that overnight-- that sprinklers reduce the rate of civilian fire deaths by 87 percent and injuries by 27 percent and they can lower the risk of property loss by 70 percent. People staying at a bed and breakfast are not familiar with the building layout and can easily become confused when trying to find exits during an emergency. Fire sprinkler systems are designed to help contain the fire, allowing for greater escape times. This greater escape time can be a vital component in saving the lives during an emergency. In closing, the potential safety benefits outweigh the costs associated with installing fire sprinkler systems in a bed and breakfast. Public safety is a paramount concern and the state should remain-- maintain the standards set forth in NFPA code requirements and not adopt the reduced requirements listed in LB546. Thank you for your time. I would be happy to answer any questions you might have.

McKINNEY: Thank you. Are there any questions from the committee?
Senator Hunt.

HUNT: Thank you, Chairman McKinney. Thanks for coming here today and sharing this with us. Is there any-- so I'm thinking about-- this is, like, not the same thing, but I'm thinking about when catering businesses get, like, a special designated license, an SDL, to serve alcohol at a, at a party or an event even though they don't have a liquor license and the--

SCOTT CORDES: Right.

HUNT: --Liquor Commission handles that type of thing. Is there any kind of, like, SDL for serving hot food? And, and is that kind of the cornerstone of the problem with why they would need sprinklers? And I mean, I assume there's nothing quite like that, but are there any kinds of variances or exceptions because of the historical nature of the building that would be an option for this constituent that you know of?

SCOTT CORDES: Certainly, our agency has a variance process. We can look at that case specific. If you think about grease-laden vapors, the things you would see in a McDonald's restaurant where you've got deep-fat-fried foods being, being created, that in and of itself has some inherent fire safety risks and it needs a protection system

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providing for that. If this facility chooses to not cook that type of food, just simply provide us something in writing saying they won't do that and life goes on. So there are methods and means by which we can look at every case based on its own merit and make those exceptions accordingly, so. And that would be allowable in this situation as well if, if the client so chooses to pursue it in that manner. I don't know if that helps.

HUNT: So it's not necessarily a one size fits all, like you do have some discretion with case by case.

SCOTT CORDES: Yeah, that is an absolutely discretionary item based on the unique characteristics of their operation and their application of those, the type of food that they choose. I cannot speak to any specific Lincoln ordinances that might be different than that. But in terms of what the state fire code says, there are opportunities to look at that based on the merit of its individual case.

HUNT: Sure. Sounds good. Thank you.

SCOTT CORDES: You're welcome.

McKINNEY: All right. Thank you. Senator Lowe.

LOWE: Thank you. Where did the number six come from for the people staying overnight to--

SCOTT CORDES: The actual NFPA standard as, as published says four. When Nebraska did the review and our agency did the review, they modified it to six to make it less stringent. So Nebraska has already gone less stringent than the national standard in not-- those requirements don't kick in quite as early so that was a, a discussion that was done internally at the time when we adopted those regulations.

LOWE: Would eight be a, a number maybe that might work, which would maybe limit the number of guests you would have down to six or, or-- I don't know, I mean, it just seems like maybe if you would increase by two that something may be able to work out.

SCOTT CORDES: Obviously, as the, the quantity of lives at risk increases the, you know, the proportion of regulations is something, you know, tend to follow. How we strike what, what the right number is certainly could be evaluated. I don't know if this is the right time to do that necessarily, Senator, but it's worthy of consideration that those, those numbers, obviously, there has to be a threshold how you

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arrive at it is something that was discussed at the time it was adopted. Could it be rediscussed again? Absolutely. Those are things that we can always consider.

LOWE: All right. Thank you.

McKINNEY: Thank you. Are there any other questions from the committee? No? Thank you.

SCOTT CORDES: Thank you very much.

McKINNEY: Are there any other opponents?

KAREN BAKER: Good afternoon, Chair McKinney and members of the Urban Affairs Committee. My name is Karen Baker, spelled K-a-r-e-n B-a-k-e-r, and I am here representing Nebraska B&B and Unique Lodging, made up of 19 locations throughout the state of Nebraska and the Nebraska Travel Association, otherwise known as NETA, consisting of nearly 100 organizations and businesses from border to border that promote tourism throughout the state. I am here in opposition to LB546. B&Bs and, and unique lodgings play a vital role in both generation of lodging taxes and making Nebraska a truly unique place to visit. The Nebraska Tourism Commission reported a record \$7.2 million in lodging tax revenue in 2022, up 18.3 percent over the previous record set in 2021. Clearly, we are doing something right. NETA and Nebraska B&B and Unique Lodging have a number of issues and concerns with the burdens imposed in this legislation in its current form. One, this bill applies to B&Bs, but has no such requirements, especially in fire suppression and mitigation on Vrbo's, Airbnbs, or other short-term rentals, which arguably have fewer safety standards than B&Bs where the owner/operator lives on premises. Additionally, there is no oversight by any local governing body to hold them accountable for said standards. This bill particularly targets and penalizes smaller B&Bs under ten rooms who are less likely to be able to absorb the financial hit that comes with many of the requirements in LB546. This bill specifies only use pasteurized grade A milk. This is unacceptable for those with dietary restrictions and must use nondairy products. This bill states that the operator of a bed and breakfast will be certified to handle food by taking an exam offered by the department. Why should the state have to provide this service when the operator can take the ServSafe course online for certification? This bill also refers to installed sprinkler systems. According to LB546, in July 2019, the State Fire Marshal adopted the National Fire Protection Association rules and regulations, but in that pamphlet it also states in reference to installation but not

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doing-- but not when doing so would impose an unduly severe or costly burden without substantially contributing to the safety of persons or property. This should be on a case-by-case basis. If a property has a minimum of an operational, interconnected, battery-operated smoke detector system, battery-powered or plug-in emergency lighting and fire extinguishers and a secondary means of egress as well as document monthly testing of such, this should be sufficient. Lastly, this bill also states that a bed and breakfast that accommodates more than ten guests at any time and serves a hot breakfast shall equip its kitchen with fire-- a fire suppression hood. As a small-- as small independent lodgings, the need for a fire suppression hood is extremely expensive and excessive. A normal bed and breakfast at a-- normal breakfast at a B&B includes a bakery item, bacon, egg dish, and fruit. Deep-fried items are very rarely ever served so there should be no need for a fire suppression hood. These points help illustrate the extensive burden you would be placing on small businesses with this legislation. Small, independently owned B&Bs and unique lodgings help contribute to their state and local economies and make Nebraska a more safe and inviting place to visit. I'm sure there are likely compromises that can be struck to ensure the senator's desire for safety is met without creating additional financial and regulatory burdens on B&Bs. I appreciate the chance to share my testimony with you today and once again urge you to oppose LB546 as is currently written. With that, I would be happy to entertain any questions.

McKINNEY: Thank you. Are there any questions? Senator Blood.

BLOOD: Thank you, Senator McKinney. Was there anything you liked in the bill?

KAREN BAKER: Oh, yeah, there was a lot I liked in the bill. It sounds like I didn't like anything.

BLOOD: No, no, no. No, that's--

KAREN BAKER: But, yeah.

BLOOD: --that's why I'm asking because what I heard you say wasn't that you didn't like all of it. What else did you like?

KAREN BAKER: I have been president of the Nebraska-- it was Nebraska Association of Bed and Breakfast and we recently changed our name--

BLOOD: I remember.

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KAREN BAKER: --and I've been president for seven years. I've owned my bed and breakfast in Blair for ten. And, yeah, there was a lot I liked. I liked that we were finally getting some documentation down, you know, but there were big things that needed attention and I couldn't, I couldn't pick one way or the other. I had to pick just one way. And so on the bigger issues of not having even, you know, when you look at Airbnb nobody is monitoring them, the short-term rentals. With us, at least for members of our association, we have standards that they have to adhere to. If people have a problem, they can call us. If people don't adhere, they're put on notice and if they don't correct it they're let go as members.

BLOOD: Well, and I know from being on the city council years ago that we identified trafficking issues with some Airbnbs.

KAREN BAKER: Right. Right. So, you know, we, we keep a close eye on our members, you know, and as for, like, I've, I've never deep-fried anything in the way of cooking at my place, so.

BLOOD: Well, I'll never eat at your place.

KAREN BAKER: I'm a great cook, though.

BLOOD: I'm just teasing.

KAREN BAKER: And I have five stars across the board to prove it. Yeah.

BLOOD: But-- OK. So, yeah, I just wanted to make sure that you got-- we got the good on record as well.

KAREN BAKER: Yeah, there is good, too.

BLOOD: So it sounds like there are things that you--

KAREN BAKER: Yeah.

BLOOD: --actually like in the bill.

KAREN BAKER: There are. There are.

BLOOD: And then the things that you verbalized, it's my understanding are the things that you don't care for in the bill.

KAREN BAKER: Correct.

BLOOD: All right. Thank you.

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KAREN BAKER: Thank you, Senator.

McKINNEY: Thank you. Are there any other questions? Seeing none, thank you.

KAREN BAKER: Thank you.

McKINNEY: Are there any other pro-- opponents? Is there anyone here to speak in the neutral? Senator Conrad, you're welcome to come up. And for the record, there were-- there was one proponent, one opponent, and zero neutral on the online comments. Thank you.

CONRAD: Thank you so much, Chair. Thank you so much, members of the committee, for your kind attention and good questions. I think that perhaps we'll have additional stops in our tasting tour it sounds like as we explore this issue a little bit more deeply together. But really what I appreciate-- said my appreciation to all of the members that provided testimony today and feedback, will continue to work with opponents to try and identify a path forward whether that's taking up the good, the good considerations that Senator Lowe brought forward in terms of perhaps threshold for application to provide a little bit more breathing room. Of course, we'll work with the Association to see if we can't better harmonize kind of how our statutory framework treats some of the new forms of short-term rental and bed and breakfast to see if we can find some synergies there, perhaps, instead of inconsistencies that fall upon the head of some of our purveyors of the bed and breakfast. And then additionally, we'll just need to kind of think through how this regulatory framework works in a state like Nebraska, for example, where in my community in Lincoln we have a bit more stringent local code considerations to deal with that may even frustrate the variance process available under state law to help somebody like Mr. Knobel. So I think, unfortunately, he's kind of stuck between a rock and a hard place between state and local law here as well so there's a lot of layers to work through. We're committed to continuing to bring the parties together and try and find a path forward. But I really appreciate your consideration and would appreciate any other ideas that you have to address this moving forward so thank you so much.

McKINNEY: Thank you.

CONRAD: Yes, Senator Blood. Oh, sorry, I don't get to say that.

McKINNEY: Are there any questions? Senator Blood.

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BLOOD: I'd like to point out I ignored her and waiting for you to call on me. Just a quick question.

CONRAD: Yeah.

BLOOD: And this-- I-- since the first time I read the bill I felt this way. Do you feel like there is room to change the language-- you know how the Nebraska Pure Food Act came about, right, it was like 2019, Senator Crawford--

CONRAD: Yes.

BLOOD: --and I did the bill together to make things easier for people who made things within their home.

CONRAD: Yes.

BLOOD: But I'm reading through all of these, these instructions because that's basically what they are, right, and then it says that they have to create a test for it or some kind of form for it. It's like it was just said, there, there's a-- they can go online and learn all this without having to memorize all this and be certified and it's really not a big thing to do. Why did we choose to, to start listing things on a bill like this as opposed to just saying please take this course?

CONRAD: Yeah, that's a, a very good question, Senator Blood, and I heard you ask Todd when he was testifying as well in terms of some of the language choice. So I remember being kind of a casual observer to this body's deliberations in regards to Senator Crawford's efforts on, I think, cottage food sometimes is how it's termed and kind of the licensure and regulation around that to make sure that small entrepreneurs have more markets for the, the wonderful things that they prepare at home but we also want to keep people safe from--

BLOOD: Right.

CONRAD: --food poisoning and contamination and things like that. And I know you have a long track record and a deep passion for lifting up local food options in the Farmer's Market in your community. And you're always highlighting those great businesses across the state as well. So I-- my understanding is, is that as Todd was starting-- Mr. Knobel was starting to dig into this to try and identify solutions from our sister states that he was drawing upon some model language in kind of bed and breakfast acts. And so I think some of those specifics were incorporated into this draft. If I'm misunderstanding some of

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that drafting history, I'll make sure to come back and correct the record with you. But I think there's a lot of latitude to work on the language to make it appropriately clear for all stakeholders, but to give some flexibility as well. And, you know, just the simple things like ensuring that there are options for folks that are lactose intolerant or otherwise, I think is a pretty simple, straightforward example and that's just one that was brought up today.

BLOOD: You wouldn't even-- I mean, if you just literally took all this language out and put in that they'd be required to do the test everything that you have almost in this language would be covered by taking that test and being certified.

CONRAD: Perfect.

BLOOD: Because a lot of what they're talking about are what they teach, this is-- you have to keep it at this temperature--

CONRAD: Right.

BLOOD: --or you have to do it in this environment and, you know, your cats aren't supposed to be on the counter when you're doing it and--

CONRAD: Always the good cooking tips. Yes. Yeah.

BLOOD: But what you do, I mean, you refer to animals and, and--

CONRAD: Yes. Yes.

BLOOD: --you know, and the same with, you know, jams and jellies. And that's all things that you learn as opposed to having all of that language in there. And then you, you wouldn't be focused on things like serve only this type of milk--

CONRAD: Right.

BLOOD: --or that would alleviate that concern, I think, too, with the NABB.

CONRAD: Thank you, Senator Blood. I've made good notes here, but I think that it's really thoughtful kind of drafting advice in terms of next steps and potential amendments if the committee decides to move forward so thank you so much.

BLOOD: And thank you for helping our B&Bs.

CONRAD: Yes, it's so interesting and, and so important. Thank you.

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McKINNEY: All right. Thank you. Are there any other questions? Seeing none, that--

CONRAD: All right. Thank you so much.

McKINNEY: --closes our hearing on LB546. Next up is LB329 and Senator Raybould.

RAYBOULD: Good afternoon, Chairman McKinney and members of the Urban Affairs Committee. My name is Jane Raybould, J-a-n-e, and the last name is R-a-y-b-o-u-l-d. I represent Legislative District 28 in Lincoln and appear before you today to introduce LB329. LB329 is intended to align Nebraska's building codes with a recently passed piece of federal legislation called the American Innovation and Manufacturing, AIM, Act. Congress passed the AIM Act with bipartisan support and the act was signed into law by President Trump in December of 2020. The purpose of the AIM Act is to phase down the existence of harmful refrigerant chemicals called hydrofluorocarbons, or HFCs, which are commonly used in equipment such as refrigerators, chillers, and air conditioning equipment. Certainly as a grocer, if you go into a grocery store, you see lots of refrigeration equipment to keep product chilled. At the same time, the AIM Act requires American manufacturers of refrigeration and air conditioning equipment to begin using a new type of substitute refrigerants that are less harmful to the environment. And I've been working in this industry for going on 28 years and what we see is that there's always a continuous substitution and changing out of Freons for less harmful Freons. Equipment manufacturers strongly supported the passage of the AIM Act. However, the passage of the AIM Act means that the building codes in all 50 states need to be updated to permit the use of the substitute refrigerants required under the federal AIM Act, and that is the sole item accomplished by the language of LB329, a clarification that building codes in Nebraska cannot prohibit the use of a substitute refrigerant authorized under the AIM Act. Across the country, country many states are rapidly adopting this legislation to accommodate the change in federal law. I do have an expert here, a representative of the Air-Conditioning, Heating, and Refrigeration Institute, the group that is spearheading this effort will testify behind me in more detail. Thank you all very much and I would be happy to answer any questions you might have.

McKINNEY: Thank you. Are there any questions from the committee? Seeing none, thank you.

RAYBOULD: Terrific.

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McKINNEY: Are there any proponents?

CHRIS BRESEE: Good afternoon, Chairman McKinney and members of the Urban Affairs Committee. My name is Chris Bresee, manager of government affairs for the Air-Conditioning, Heating, and Refrigeration Institute or AHRI. Thank you for allowing me to speak with you today and convey AHRI's strong support for LB329 sponsored by Senator Raybould, which will provide American manufacturers in the heating, ventilation, and air conditioning refrigeration industry or the HVAC industry with the certainty needed to comply with forthcoming federal regulations phasing down the use of HFCs. AHRI represents more than 330 manufacturers of air conditioning, heating, commercial refrigeration, water heating equipment, our member companies, some of which operate facilities here in Nebraska produce more than 90 percent of the residential and commercial air conditioning, heating, and commercial refrigeration equipment made in North America. Here in Nebraska, the U.S. HVAC industry supports almost 2,000 jobs, and it supports more than 570,000 jobs nationwide. As members, the committee may be aware and did just hear in December 2020 of the American Innovation Manufacturing Act, or the AIM Act, was signed into law by President Trump. It directs the EPA to issue rules that will phase down the usage of current refrigerants, restricting their use in certain applications, such as commercial refrigeration, chillers, and air conditioning. This will allow for an orderly transition to next generation refrigerant technologies, many of which are made here, right, right here in the United States. However, manufacturers are facing a pressing challenge. Building codes need to be updated in all 50 states this year to remove the regulatory barriers to the use of substitute refrigerants. Efforts are already underway to do so, as you can see in the map in front of you. Every single state now has some progress underway to, to adopt these and the states in the darker color there, I know it's in black and white, have already adopted changes either through building codes or through legislation similar to LB329 and most recently South Dakota and Wyoming. All LB329 does is amends the state building code to allow any substitute refrigerant deemed safe under federal standards to be used in Nebraska. This will eliminate the mismatch of the building code schedule and enable the use of new refrigerants one or two years earlier, ensuring that there is no regulatory disruption for consumers by making new products available for sale in the state of Nebraska on the same schedule they will be available in other states. In other words, LB329 eliminates the timing barrier without imposing any new regulatory standards. It simply allows for harmonization with the 2024 model building codes benefiting consumers and businesses. Thank you again for the

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opportunity to provide testimony at this hearing. AHRI is looking forward to continue to work with the Nebraska Legislature to achieve both the economic environmental benefits of the phase down of HFCs and I'm happy to take any questions.

McKINNEY: Thank you. Can you spell your name?

CHRIS BRESEE: Yep, absolutely. My name is Chris, C-h-r-i-s, Bresee, B-r-e-s-e-e.

McKINNEY: Thank you. Are there any questions from the committee? Senator Lowe.

LOWE: Thank you. The refrigerants--

CHRIS BRESEE: Yep.

LOWE: --the new ones compared to the old ones, are they as effective? Do they work as well? Do they have to be replaced more often? Is there more wear and tear on the machinery?

CHRIS BRESEE: So we have a huge basically number of substitute refrigerants already being under consideration and already approved by the EPA. So it varies refrigerant by refrigerant. But, yes, many of them are, are every bit as effective, sometimes more. And, yeah, as I said, it's, it's hard to characterize since they have a large market of substitute refrigerants but they, they do work effectively.

LOWE: OK.

CHRIS BRESEE: Yeah.

LOWE: Even, even on the older equipment?

CHRIS BRESEE: So that's actually an important point to clarify here. So the AIM Act is not going to require the replacement of any existing equipment. It applies to new equipment going in. The newer refrigerants will require newer-- new equipment, but it's not going to speed up the requirement for that. That's one of the reasons why LB329 is important, we're facing a supply cut in HFCs by 40 percent starting on January 1, 2024. So we need as much supply as possible of the HFCs to service existing equipment, you know, so we have enough to, to get everything through the end of life as we face down HFCs nationwide under the AIM Act.

LOWE: So there's a shortage of HFCs at this time?

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CHRIS BRESEE: Not at the moment, no. But the supply will be cut under the federal AIM Act moving forward so we want to make sure that the new products get into the market so that we're not putting a strain on the supply of, of hydrofluorocarbons that are remaining.

LOWE: All right.

CHRIS BRESEE: Yeah.

LOWE: Thank you.

McKINNEY: All right. Thank you. Are there any other questions? No? Thank you.

CHRIS BRESEE: Thank you very much.

McKINNEY: Are there any other proponents?

ANSLEY FELLERS: Thank you, Senator McKinney-- Chairman McKinney and members of the committee. My name is Ansley Fellers, A-n-s-l-e-y F-e-l-l-e-r-s. I'm the executive director of the Nebraska Grocery Industry Association and I'm here today testifying in support of LB329, which would simply allow our retailers to install equipment which utilizes replacement refrigerants pursuant to federal law. This building code update is needed, but to be sure, much more work is needed to ensure the transition to alternate refrigerants is safe and efficient. You've heard the details of the proposal and we definitely support it and why it's necessary so I don't want to be redundant, but I wanted to mention that the AIM Act, the reason we're here, was slipped into a consolidated measure to keep the government running in December of 2020. The act directed the EPA to phase down production and consumption of HFCs by 85 percent, even though they have zero impact on the depletion of the ozone layer. The HFC phase down is driving many refrigeration and HVAC equipment owners to make significant investments just like our retailers. Any new refrigeration or HVAC system which has low global warming potential is a significant departure from refrigeration systems used in your supermarket today. The cost of the equipment, installation, dealing with toxic substances, handling new hazardous waste streams, and ensuring continuous monitoring and safety of all the people I represent-- all fall on the people I represent. Grocers of all sizes, but small independents, in particular, are going to find themselves in the most difficult situations. Last year, I received a call from a small independent store in central Nebraska who had a leak in their HVAC system. They contacted their supplier and were told that in

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preparation for continued phase downs, manufacturers and suppliers were already transitioning away from the type of Freon they needed. We couldn't find money for them. The leak itself was going to cost them \$30,000, so they decided in preparation for the phase downs they would replace their HVAC system. That entire replacement at a small store, a single owner in central Nebraska, was going to cost \$1 million. We went to USDA, we went to the state, we went to the EPA, we went to the State Department of Energy and couldn't find them much money at all to do that. Luckily, that store owner owned their store outright so they could afford to take out a loan to replace the HVAC. Not all stores are in the same situation. Our stores also don't have experience working with HFC alternatives. HFCs and HCFCs, which are being phased out, have low, low flammability, while their alternatives A2L and A3 are both flammable and CO2, Carbon dioxide, must be kept under high pressure. Another alternative, ammonia, is described as a colorless, pungent, highly toxic gas but it's very efficient-- but it's a very efficient refrigerant with zero global warming potential. With all of that, I just wanted the committee and folks listening to be aware that this has a really broad impact and we'll probably be back to the state asking for some assistance to help our store owners comply with this mandate but we ask the committee to support LB329 and support this intent. Thank you.

McKINNEY: Thank you. Are there any questions from the committee?
Senator Lowe.

LOWE: When you say you're coming back to the state to help comply with this, what are you talking about?

ANSLEY FELLERS: Probably money, Senator, unless, unless, you know, the-- this would take action at the federal level to prevent EPA from continuing to enforce it. So when we're talking about a mandate like this, we would ask for some assistance in helping pay for it. The folks who supported it certainly aren't doing that.

LOWE: So the old equipment that are in a lot of the stores and, and bars and, and restaurants and everywhere else that there's refrigerants, the cars, we're not, not able to get the refrigerant that belongs in those anymore but this.

ANSLEY FELLERS: So anything-- yeah, so the, the tricky part is, like, anyone supporting this effort will tell you, well, you don't have to replace your equipment, but you have to replace your equipment if you can't get the proper Freon to continue running your equipment. Right? And once you have to do the upgrade, you have to be compliant with the

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new rules and the rules, the, the 85 percent reduction and the, the big reduction takes place over the next 15 years. It's, it's a pretty long-- I think it's 2035 or 2036, it's a pretty long phase down, but we're already seeing the impacts. And I think in the next five or ten years, you're going to see a lot of businesses who didn't quite understand what this meant and what it would-- what the impact would be.

LOWE: All right.

ANSLEY FELLERS: But current systems, yeah, it's cars, too. It's everything.

LOWE: Thank you.

McKINNEY: Thank you. Senator Hardin.

HARDIN: Are you familiar with how expensive Freon can get?

ANSLEY FELLERS: Yes.

HARDIN: Are there estimates in two years or five years or-- but if you have the bad luck of having something that lasts a long time is, is it expected to be an exponential increase?

ANSLEY FELLERS: Yeah, I think at that point-- so like I said this-- the grocer that contacted me had a small leak and their estimate was \$30,000 to fix it, which is like, you know, thousands of thousands of times what it would cost them several years ago.

HARDIN: OK.

ANSLEY FELLERS: So I imagine that, that will be exponentially higher in the next few years as the-- and, and rural, obviously, rural stores are going to be at a significant disadvantage because they're small, they're rural, it's going to cost even more.

HARDIN: Thank you.

McKINNEY: Thank you. Are there any other questions? No? Thank you.

ANSLEY FELLERS: Thanks a lot.

McKINNEY: No problem. Are there any other proponents? Are there any opponents? Is there anyone here to speak in the neutral? No. Senator Raybould, you're welcome to come up and close. For the record, there

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were three proponents, zero opponents, and zero neutral on the online comments. Thank you.

RAYBOULD: Thank you all. Thank you all for the great questions. And so I've been dealing with Freon for all these years, and the EPA systematically goes through different types of Freon and determines that, you know, these-- they need to be phased out because they may or may not pose environmental hazards to the ozone layer and so we've been phasing out different Freon. So right now, R-22 is being phased out. And when I say phased out, they make it less available on the market. So just to give you an example, R-22 is a very common refrigerant. And it-- I remember it used to be about \$22 a pound and, and sometimes some systems takes 300 to 500 pounds of Freon gas to keep that system chilled. And so it's gone up to about \$89, \$90 a pound. So you can imagine it's, it's quite exorbitant, particularly for the smaller retailers out there, restaurateurs or other retailers. They have older equipment for the most part, certainly out in, in rural communities. And it becomes a challenge, 408 is the one that they're really phasing out right now as well along with R-22. But the good news is that there are substitutes that are compatible that can work with the existing type of equipment. But however, as it goes on, sometimes they do have a corrosive effect and you're constantly watching your expansion valves and changing out the filters. I mean, I can really geek out on this stuff, but as a grocer, we try to be very proactive and do a distributed load system so we use less Freon, less copper piping, and so on, as well as other grocers and other retailers that need this type of refrigeration equipment. So we're just trying to, you know, it's like take one step ahead of the EPA and, and some of the requirements that they put down. And I, I know that when Ms. Fellers was reaching out and saying, you know, we're looking for assistance, it's just like with LED lighting. Do you remember we had fluorescent lamps and now we are converting to LED lighting, you know, in a, a grocery operation sales floor, everywhere in, in a building, any building everywhere, office buildings, etcetera. So it was great to have some of the utility companies like Lincoln Electric System or OPPD and NPPD, they would offer rebates in Mid-America and Iowa would, would offer rebates, incentives to accelerate that transition from fluorescent light fixtures that use more energies to LED light fixtures that use less. And so those incentives offered by the utility companies really accelerated that transition from the fluorescent to LED. It makes perfect sense to do that stuff. So that's the type of incentives we're looking because when it comes to the equipment that is used, it is so expensive. So we can easily spend \$300,000 on one component, one rack, and all the elements that need to get that

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transition done. So it's really expensive. And for smaller operators, Ms. Fellers gave a perfect example, they struggle so hard. We have seen some shortages with R-22 and scrambling for R-408 for some of our older grocery stores. But you know, we're-- I'm constantly-- one of my jobs is keep doing all these conversions, conversions from different Freon so I feel like after I go through one wave I have to do another. For some smaller retailers, it is so extraordinarily expensive and it becomes more challenging to get the funding. And so those type of incentives really make us better stewards of our environment in trying to help us push it along quicker and trying to keep a couple of steps ahead of the EPA. So this is really kind of a very minor thing, to be honest with you, just to make sure that we're in compliance with the federal standards and that we can still continue to use the same equipment as long as we can continue to get other alternatives, other alternative refrigerations that are compatible and then keep the equipment working, so. Sorry, I really love this topic.

McKINNEY: Thank you. Is there any questions from the committee? No?

RAYBOULD: OK.

McKINNEY: Thank you, Senator Raybould.

RAYBOULD: All right. Thank you all very much.

McKINNEY: And that will close our hearing for LB329. Up next is LB342. Senator Hardin.

HARDIN: Thank you, Chairman McKinney. And good afternoon, fellow senators of the Urban Affairs Committee. I'm Senator Brian Hardin. For the record, that is B-r-i-a-n H-a-r-d-i-n, and I represent the Banner, Kimball, and Scotts Bluff Counties of the 48th Legislative District in western Nebraska. I'm here to introduce LB342 brought to me by the Secretary of State. LB342 will standardize the length of the registration period for home inspectors and allow for a renewal process when the registration expires. The current home inspector statutes require home inspectors to register with the Secretary of State prior to conducting a home inspection and in each even-numbered year. The vagueness of, quote, in each even-numbered year and the inability to institute a renewal process created many administrative challenges and has led to confusion and frustration for registering home inspectors. This bill would create a standard two-year registration period for all home inspectors. It's similar to the registration period in place for athlete agents, which are also registered with the Secretary of State's Office. Home inspector

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registrations would expire on the two-year anniversary of their initial registration, but they would be given a 45-day window prior to the expiration to renew their registration. The other change made is to alter the time for reporting any changes to our office from 30 to 45 calendar days. During the hectic drafting process we had this year, we missed an error on the bill so on page 3, line 7, the word "business" should be stricken and replaced with the word "calendar" and this is the amendment that's been handed out. I would ask the committee to include this as a committee amendment rather than being required to figure out how many business days have elapsed trying to take into account weekends and holidays and so forth to figure out how many days have been counted. This is a simple change that essentially says 45 calendar days before your-- the end of your expiration is what, what they're counting. So the overall goal of the bill is simply to ease the administrative burdens for the home inspectors and the Secretary of State. There's a representative from the Secretary of State's Office behind me to testify that can answer the more technical questions. However, if you have easy questions, you can ask me. Thanks.

McKINNEY: Thank you. Are there any questions from the committee? No? Thank you. Are there any proponents?

COLLEEN BYELICK: Good afternoon, my name is Colleen Byelick. It's C-o-l-l-e-e-n B-y-e-l-i-c-k. I'm the chief deputy and general counsel for the Secretary of State's Office here on behalf of Secretary of State Bob Evnen. First, I would like to thank Senator Hardin for introducing this legislation on behalf of the Secretary of State's Office. Our office licenses a variety of occupations. We license or register athlete agents, collection agencies, private detectives, debt management companies, and home inspectors. Legislation to require registration of homeowners-- home inspectors was introduced by former Senator Steve Lathrop in 2021, with a delayed operative date of January 1, 2023. The legislation created a registry for home inspectors with the Office of the Secretary of State. Former Senator Lathrop indicated that the goal was to provide a minimum level of accountability for home inspectors and provide Nebraskans with some protection when making what is often the largest purchase of their lives. As part of this legislation, home inspectors are required to register, pay a registration fee, provide a certificate of insurance coverage for \$250,000 of general liability coverage before conducting home inspections in the state and the existing law also provides that the home inspectors are registered in each even-numbered year. But as our office began implementing the legislation and developing forms and regulations, we realized that the language related to registration in

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each even-numbered year was troublesome and difficult to administer. The legislation did not specify a set date for reregistration or what's often referred to as a renewal. LB342 fixes this issue and provides that the initial registration is good for two years and then may be renewed 45 days prior to the expiration of the registration. The bill does not change the requirements for registration and with the proposed amendment it also changes the number of days to report a change in information from 30 business days to 45 calendar days. We believe these two changes will help us in administering this new registration program and we request the support of the committee in moving this legislation forward. Thank you for your time. I'm happy to answer any questions you may have.

McKINNEY: Thank you. Are there any questions? Senator Blood.

BLOOD: Thank you, Senator McKinney. Just a quick question. If we're trying to, to make it easier and give them more time, why are we switching from business days to calendar days because doesn't business days give them more time and you guys aren't open on weekends?

COLLEEN BYELICK: It was 30 business days and we switched to, to 45 calendar days.

BLOOD: Why wouldn't we just keep it as 45 business days?

COLLEEN BYELICK: I think our thought process was that it's easy to-- easier to calculate calendar days for, you know, someone that's not used to having to calculate days and what it means to have a business day and, you know, a calendar day, that it was just simpler to go to 45 calendar days than to try and calculate what it meant for business days.

BLOOD: Fair enough.

McKINNEY: Done? No more questions? All right. Thank you. Any other questions from the committee? No? Thank you.

COLLEEN BYELICK: Thank you.

McKINNEY: Are there any other proponents? Are there any opponents? Anyone here to speak in the neutral? Senator Hardin, you're welcome to come up. For the record, there was one proponent, zero opponent, zero neutral on the online comments and he waives closing. And that will end our hearing for LB342 and we'll go into Executive Session.