

Senate Finance Committee

Deb Martone 271-4980

Joint Hearing Between the Senate Finance Committee and the Senate Election Law and Municipal Affairs Committee on SB 297-FN, relative to pooled risk management programs.

Hearing Date: March 4, 2025

Time Opened: 1:06 p.m.

Time Closed: 3:51 p.m.

Members of the Committee Present: Senators Gray, Innis, Carson, Birdsell, Pearl, Lang, Rosenwald and Watters; Senators Long, Rochefort and Perkins Kwoka.

Bill Analysis: This bill:

I. Enables the secretary of state to require abatement of insufficient assets or to seek receivership, if necessary, of a pooled risk management program.

II. Requires assessment of each participating member of the pooled risk management program on a pro rata basis to satisfy the amount of the deficiency.

III. Requires the governing board of the pooled risk management program to use a standard of care, diligence, prudence, and skill in the management of the program.

IV. Provides for the assessment of a pooled risk management program's participating members, if required, after an actuarial calculation.

V. Provides for contingency reserve standards depending on the pooled risk management programs line of coverage and requiring a contingency reserve replenishment if a program's contingency reserves fall below the minimum level.

VI. Requires pooled risk management programs to make certain public disclosures to prospective and actual member political subdivisions.

Sponsors:

Sen. Carson

Who supports the bill: Christina Ferrari; Hua Li; Brian Ryll; Glenn Brackett; Claudia Istel; Alan Raff

Who opposes the bill: Please contact the Senate Finance Committee Aide for a complete list of those opposed to SB297. (Debra.Martone@gc.nh.gov)

Who is neutral on the bill: Lisa Duquette; Ty Gagne

Summary of testimony presented in support:

Senator Carson, Prime Sponsor:

- Senator Carson began her testimony by stating that the bill was filed at the request of the Secretary of State. She introduced SB 297-FN after she was made aware of financial and operational issues potentially challenging the solvency of some of the risk pools operating in New Hampshire. This information gave her great concern over the viability of some of those entities.
- Pooled Risk Management Programs were authorized legislatively in 1987 to allow for political subdivisions to come together to self-insure coverage for their employees and municipal property such as health, property casualty, and workers compensation.
- She stated this bill goes a long way towards protecting the taxpayers' political subdivisions and their active and retired employees through the addition of much needed language to provide solvency and financial impairment protections for the pools ensuring predictability and stability. The bill sets minimums and maximums for contingency reserve ensuring the pool's success as an ongoing entity, while making sure surpluses that are not needed are returned to the pool member political subdivision. This section will take effect in July of 2026 and further adds emergency trigger mechanisms that authorize the Secretary of State to seek a receiver through the court to enforce an immediate assessment of contributions to ensure financial stability and protect New Hampshire taxpayers, as well as active and retired employees.
- The legislation also increases transparency through requiring disclaimer language for the self-insured coverage lines and states these pools are member owned.
- Lastly it adds four new definitions to key terminology that will ensure the efficient running of operations. She stated this bill will take effect upon passage except as she stated before the replenishment of the contingency fund reserves, which will take effect in July of 2026.
- She stated the Secretary of State, the Bureau of Securities and the actuary are here to answer any questions that the committee might have.
- Senator Rosenwald asked Senator Carson to clarify that the bill goes into effect July 1, 2026 but the effect on contributions would not actually occur until fiscal year 2028. Senator Carson replied that the effective date as amended by Section 3 of this act shall take effect July 1, 2026, and Section 2 states the remainder of this act shall take effect upon passage. Chairman Gray then stated to Senator Rosenwald that the question could be better answered by the witnesses that were yet to come up.

David Scanlan, Secretary of State:

- Atty. Ferrari and Mr. Li are experts that the Secretary of State relies on for these matters.

- Secretary Scanlan stated at the risk of oversimplifying this situation he wanted to give an explanation in simple terms as to what risk pools are and the Secretary of State's involvement with them.
- Secretary Scanlan stated that in RSA 5-B:6 there are annotations in the sections and there was a court case back in 2004 that dealt with Right-to-Know information and a risk pool.
- A “risk management pool for political subdivisions was a public body subject to the Right-to-Know law. The pool was a quasi-public entity governed entirely by public officials and employees operated for the sole benefit of its constituent governmental entities and for the sole purpose of managing and providing health insurance benefits for public employees, managed money collected from governmental entities, and enjoyed the tax-exempt status of public entities and performed the essential government function of providing insurance and pooled risk management programs to political subdivisions”.
- RSA 5-B:6, I, states that “any pooled risk management program meeting the standards required under this chapter is not an insurance company reciprocal insurer or insure under the laws of the state, and administration of any activities of the plan shall not constitute doing insurance business for purposes of regulation or taxation”.
- RSA 5-B:4a gives the Secretary of State the responsibility of oversight and II and III of that section says the Secretary of State shall have all powers specifically granted or reasonably implied in order to perform the substantive responsibilities imposed by this chapter for the purpose of any investigation, hearing or proceeding under this chapter the Secretary of State or any officer designated by him or her may administer oaths and affirmations of penal witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda agreements or other documents or records which the Secretary of State deems relevant or material to the inquiry.
- Secretary Scanlan stated this is a role that is given to him by virtue of holding the position of Secretary of State. The importance of the role is protecting the interests of the employees both current and retired, taxpayers, and the political subdivisions themselves. He stated too often we see government failure when some event occurs that is pretty tragic and people are pointing their fingers as to who was responsible, what happened, how did we get in this mess. The reason for this bill is that two of the risk pools are in danger of insolvency. They are not following actuarial advice and they are charging guaranteed maximum rates from members that are well below the actual cost of claims. They have prematurely liquidated financial investment instruments to cover cash flow and they are hemorrhaging financially on a monthly basis.
- Secretary Scanlan stated there was a lawsuit 10 years ago with a large pooled risk organization over large amounts of surplus funds that were being held by the pooled risk organizations and after going all the way to the Supreme Court it was determined those surplus funds had to be returned back to the political subdivisions and the taxpayers. As part of that there was also a pooled risk organization that was known as PLT that was part of a partner organization

know as the Partner Health Pool that was actually subsidizing the funding of the PLT organization. It was not solvent on its own and that pooled risk organization is still in runoff until all of the debts of that pooled risk organization are paid off.

- When Secretary Scanlan became Secretary of State he wanted to have constructive, nonadversarial relations with these groups. About a year after he became Secretary, one of the pooled risk organizations came into his office and self-reported that they were having financial issues. The Secretary of State scheduled a meeting to try to see what the issue was and how it might be best resolved. Secretary Scanlan made sure that he attended that first meeting. Unfortunately, the Executive Director of that risk organization refused to come down and meet with him. They reached out to the Board of Directors and brought Mr. Hua Li up to participate and talk about the issues they were seeing. Mr. Li was cut off in the middle of his presentation because they were out of time. Whenever the Secretary of State's Office attempted to seek information, they experienced stall tactics and delays, as well as the use of pooled risk claims money to hire attorneys.
- Secretary Scanlan stated that SB 297-FN is designed to establish solvency, guardrails, and encourage risk pools to operate in a responsible way.

Christina Ferrari, Attorney at Bernstein, Shur:

- Atty. Ferrari is an outside counsel to the Secretary of State. She reiterated the purpose of risk pools stating they are unique programs whose net assets are owned by employees and where the risks are shared among political subdivisions.
- SB 297-FN provides for what happens if there is financial impairment or insolvency. She stated there are certain steps that need to be taken in these circumstances. One such step is a written notification to members of a potential assessment, meaning they have to pay more funds into the program in order to cover shortfalls. Another step is a written proposed course of action to remediate these deficiencies. SB 297-FN also gives the Secretary of State additional authority to issue an order to the governing board requiring abatement of a deficiency. For example, if a contingency reserve falls underneath the levels that are set in the law. It also gives the Secretary of State authority to order or to seek an order from the superior court or receivership if the governing board does not apply. That authority can be exercised as the Secretary of State determines based on the situation he is facing. SB 297-FN provides for prompt assessment of participating members if required and it makes sure any shortfall can be recovered in a much quicker fashion, not over several years that further allow the financial instability to persist and to further put the members at risk.
- SB 297-FN sets forth minimum and maximum ranges of contingency reserves. She stated this depends on the lines of coverage that are involved.
- SB 297-FN provides for a contingency reserve replenishment if the contingency reserve falls below minimum levels.
- Atty. Ferrari answered the earlier question of Senator Rosenwald regarding when the law comes into effect. She stated if the issue is a contingency reserve replenishment it would take place in 2028.

- Atty. Ferrari stated having the ability to assess and ensure that the programs will not become insolvent and that all claims and expenses are fairly and equitably satisfied despite unforeseen events is necessary. She also stated SB 297-FN improves the financial deficiencies and also makes sure the participating political subdivisions who have not paid enough into the program are the ones who will make up the assessments.

Hua Li, Actuary, Complete Actuarial Solutions Company:

- Hua Li is an actuary accredited in both health and property/casualty. He stated the pools have gotten themselves into financial difficulty mainly due to years of intentionally charging less than the actuarially recommended contributions and replenishments. A secondary reason is the expenses have gotten out of control but the primary reason is year after year ignoring what the actuaries are telling them that they need to charge in contributions and replenishments.
- Mr. Li stated the first example of this is PLT. The pool is already in runoff and was forced into runoff because for many years they were intentionally charging significantly less than actuaries were recommending. They were also being supported by an illegal subsidy. When that subsidy was forced to end, they were so far behind in their contributions and funding they were forced to go into runoff. They could not recover from the years of intentional underfunding.
- The next pool Mr. Li discussed was HealthTrust. On Page Two of his handout, he summarized HealthTrust's contingency reserves over the years as a percentage of contributions. HealthTrust has also for years intentionally charged less than the recommended contributions. Mr. Li stated that their meeting minutes show at least eight different instances and examples confirming such action.
- One example was coming out of the pandemic. Initially, during the pandemic people went to the doctor less and all the health programs made a decent amount of money because people didn't go to the doctor. Once people began seeing their doctors again toward the end of the pandemic, HealthTrust actuaries told them they need to add a charge because it was likely people would start coming back and the pool might lose money. HealthTrust did not do that and their meeting minutes show they elected not to do that.
- Approximately 4 or 5 years ago a study was done for HealthTrust showing their high deductible plans were significantly underpriced compared to low deductible plans. They were told they needed to raise the pricing for these because their members are moving to the high deductible plans. HealthTrust ignored this advice.
- Mr. Li stated they found at least 8 examples of HealthTrust repeatedly not charging the contributions or replenishments recommended by the actuaries. The result is HealthTrust will have lost money in 5 of the last 7 years and they're on track to potentially end up in their worst ever financial position. They are currently losing about \$2.5 million per month and that may accelerate towards the end of the year as HealthTrust's claims pattern is higher expenses at the end of the year. HealthTrust is likely to be down to approximately 15 days remaining of cash and reserves.

- Because HealthTrust has been low for a few years, in order to make up for these years of undercharging they're having to collectively increase rates by about 40% over a period of 3 years. The first year was over 15 percent; the second will be 10 percent. The third year has not yet been decided. Given that they are losing about \$2.5 million per month, the third year is likely to be another 10-15 percent. The 40 percent increase is more than double the industry-wide level of rate increases in health care, so it is clear that this is not driven by health care trends.
- Mr. Li stated NHIT is not having an actuary annually calculate their contributions. Instead, they are having an underwriter do it, which is not appropriate. In the studies done by actuaries, the actuaries indicated NHIT's funding was significantly inadequate.
- As of their last financial statement NHIT is underwater. This means they have more liabilities than assets and their contingency reserve is now negative.
- Mr. Li stated Primex was in good shape up until a few years ago. Primex is a property/casualty pool. Mr. Li said actuaries reviewed statements that Primex provided for Fiscal Years 2022 and 2023 and the actuaries found Primex was charging more than 10 percent a year less than actuaries were recommending. Mr. Li stated the reason Primex was charging less than the actuarially-recommended rates was so that they, like the other pools, could compete for market share.
- Mr. Li stated they have the least concern for SchoolCare as it is in good shape.
- HealthTrust's administrative expense ratio, the proportion of these taxpayer dollars they're spending on administration, compensation and staff, is almost double the expense ratio of SchoolCare. It should be lower because HealthTrust is more than double the size of SchoolCare. There should be economies of scale in terms of how many staff you need but they are approximately double. HealthTrust does provide an extremely high level of Cadillac services for a health pool but they also provide many services that are very unusual. Some of these services include IT services, legal HR services, corporate retreats, hiring lobbyists, scholarship funds, and numerous other services that are not normally provided by a public risk pool.
- NHIT's expenditures on reinsurance has ballooned from about 10 percent of their gross premium, which is the normal level for a pool of its size, to 22 percent or about \$10 million a year. If NHIT had stuck to buying the right level of insurance they would not be in their current financial situation.
- Mr. Li stated Primex's administrative expense ratio has been climbing and is now at 30%. That is higher than the average for commercial property and city insurers. The commercial average is 25% and it's been falling. Primex is now at 30% and it has been rising. Public risk pools should have lower expenses than the commercial industry since the commercial industry has many different costs, such as taxes and agent fees. Public risk pools were created to save members and taxpayers 10-20% when compared to buying commercial insurance.
- SB 297-FN addresses the short-term solvency issue by allowing for a couple of different types of assessments. One type the pools can do themselves. If an

actuarial analysis by the pool indicates at any time that the pool is short on funds and they need more money, it gives them authority to assess the members. The regulator at its own discretion can institute an assessment with 30 days' notice.

- The other key feature of SB 297-FN is a long-term feature. The bill sets minimum and maximums on what the surplus can be. The aim is to prevent the pools from ever getting into the same situation again. This also provides an incentive to charge the recommended rates. If the pools fall below the set range they will be forced to tack on the replenishment. The effect of these changes is that the risk pools will be forced to start managing their expenses. If the pools are going to compete for market share, they should compete over reducing expenses, or who can provide the most valuable service.
- To quantify the impact of the law change, Mr. Li provided charts representing trends for each of the risk pools. He stated the 2028 window was selected to give people time to prepare for this change in law. Mr. Li provided a chart representing HealthTrust's contributions. HealthTrust is already adding a 5.3% percent replenishment charge that they call the Capital Risk Charge in order to recover. Since HealthTrust is already doing this and the implementation of this law is delayed to give them time to adjust, there is no projected impact on HealthTrust's contributions in 2028. The 5.3 percent will be dropped by 2029 resulting in lower contributions for that year despite the law change.
- For NHIT the projection is they would need a 5 percent or 6 percent charge to get back into the range. This charge would be for one year. Afterward, there would not be a projected impact. NHIT has said they are thinking about implementing a charge. If the charge was for 2.5 percent annually then the projected impact of this law would be less than 1 percent.
- Primex will experience a minimal impact by the proposal.
- SchoolCare has a 2 percent net income projection and, therefore, they are projected to be well within the range set by SB 297-FN. SchoolCare will be unaffected by the proposal.
- HealthTrust has indicated they feel the set maximum for surplus is too low. HealthTrust's opinion is based on an actuary analysis that led them to believe they need greater contingency reserves. This analysis showed how much was needed in contingency reserve to support intentional underpricing and under replenishment for a period of up to 5 years.
- Senator Rosenwald asked if any of the no impact assumptions indicate there would not be a surplus return at the end of the year; that it would just stay and go into the contingency reserve. Mr. Li responded the maximum is part of the reserve range. This would be 12 percent to 16 percent or even 18 percent if the pools applied for the increase at the end of the year. If the contingency reserve is above that, the money would be returned to the members. Previously, the pools were manipulating the contingency ranges on their own.
- Senator Pearl stated on February 28, 2025, HealthTrust released a statement regarding SB 297-FN. He asked if Mr. Li had seen that statement. Mr. Li said he had seen the statement. Senator Pearl then asked Mr. Li if he wanted to offer a response to the statement. Mr. Li then indicated they provided a response. He

said HealthTrust has sent warnings to their members about the dangers of the reserve range, telling them if they fall out of the range they could be assessed in as little as 30 days. Mr. Li stated it appears the people at HealthTrust misread the bill, as it would be a 2-year replenishment. They continually refer to the independent analysis they had done to claim that the maximum for the contingency reserve is too low. Mr. Li reiterated this analysis is irrelevant. The claim made in HealthTrust's statement regarding SB 297-FN making HealthTrust undercapitalized is disingenuous. He is unsure if the members are even aware they are losing \$2.5 million a month.

- Senator Birdsell asked if the municipalities and those covered are aware that any of this is going on. Mr. Li responded HealthTrust has provided no evidence to show they have told their members the extent of their situation. Atty. Ferrari reiterated this point and explained the Secretary of State and the BSR have determined that for these issues the main drivers of the problems are really the way that HealthTrust is doing the ratings for the contributions. She stated none of those issues seem to have been communicated to the members. Senator Birdsell stated the reason she asked the question is because she received information from David Caron, the Derry Town Administrator. Senator Birdsell said that Administrator Caron claimed he was unaware of any crisis which precipitated this legislation. This makes it sound like HealthTrust is not forwarding information to the municipalities.
- Senator Watters asked Atty. Ferrari to describe how the money would be obtained from those who left the group. Atty. Ferrari responded that RSA 5-B:5 provides that if the contingency reserves fall below the minimum it gives the ability to add to the next contributions the replenishment they are referring to. The language of the bill does not set forth a strict payment schedule, but it does make clear that even those who have left the pool are still responsible, since the deficiency occurred while they were a participating member. Senator Watters then asked Mr. Li whether they could step in if one of the risk pools decided not to act and the situation became precarious. Mr. Li responded they could absolutely step in. Everything else within the bill is immediate upon passage so if the situation got worse the two other assessments are available. Senator Watters asked the Secretary of State if he thought there was any reason the Bureau of Securities Regulation should have rulemaking so that there is a process for these issues to get worked out. Secretary Scanlan replied that the Secretary of State's Office has had very little responsibility for the rulemaking process when looking at things like elections, corporations, and final records. He said if it is helpful down the road to incorporate administrative rules then it just needs to be written into the statute. He thought that was reasonable.
- Senator Gray indicated the statement about shifting responsibility for any liability from the towns to the company caused him the most distress. He said he did not see anything in SB 297-FN or any existing law that allows for that transfer of liability. He asked if he was wrong in thinking that. Atty. Ferrari asked Senator Gray to explain what he meant by shifting liability. Senator Gray clarified if a risk pool were to become insolvent and there was a deficit, who would be liable to make it up. Atty. Ferrari replied because of the nature of the

programs being self-insured and the fact that the funding only comes from public monies contributed by public entities, any unfunded losses such as claims expenses would fall to the political members at the end of the day. She explained this was the reason why the risk of insolvency or financial instability is frightening. Senator Gray stated as he understood it, a political subdivision could not file bankruptcy. Atty. Ferrari stated she was not a bankruptcy attorney but her research indicated there may be reasons where a municipality can try to petition for bankruptcy protection under Chapter 9. There is a fact-specific multi-level test that needs to be completed for a municipality to receive such protections. New Hampshire does not authorize municipalities by statute to seek such protections. Senator Gray stated PLT was the only pool he understood that has gone but he also understood there was a pot of money paying the existing claims. There is not currently a case that can be cited of a company going out of business with an outstanding liability. Is this true? Atty. Ferrari responded it was her understanding of the situation that there are no such other cases. Mr. Li stated any liability remaining in runoff will be paid off by the members, though how so would have to be decided should the time come.

- Senator Perkins Kwoka asked where the 12-16 percent range for contingency reserves came from. Mr. Li responded the starting point for these thresholds were the industry regulatory standards. He stated 10-12 percent minimums for health pools are quite common at the industry level and property/casualty sits around 33 percent. Mr. Li stated they also looked at the pools individually and the analyses that consultants performed, to better tailor the level for contingency reserves. They also performed a confidence level analysis to ensure that insolvency is impossible by aiming for 98-99 percent confidence. A range of 16-18 percent for contingency reserves meant there was a calculated 99 percent level of confidence that the pool would remain solvent.
- Senator Watters asked if there was any upward pressure on what is considered the necessary contingency reserve because of increased losses due to weather events. Mr. Li responded the thresholds are not dollar thresholds but percentage thresholds meaning the percent of contributions is measured. Mr. Li stated long term trends will be picked up by these measures. He also stated this reinforces the need for mandatory minimums to ensure pools do not undershoot their need for contingency reserves. The pools can also petition for a higher maximum but the reserves need to be actuarially justified when making their decision.

Brian Ryll, President, Professional Firefighters of New Hampshire:

- Mr. Ryll wanted to provide a slightly different perspective. He was not the subject matter expert on what the capital adequacy reserves should be. He noted there were people far more qualified and knowledgeable who could discuss those numbers. However, he wanted to provide a perspective on the standard of care, diligence, prudence, and skill in the management of the program.
- Mr. Ryll stated it was of significant concern to him when he learned that a number of members' benefits for covered individuals had been cut, particularly at the foundational level for their health insurance. He explained, except for 3 of the 43 local unions they represent, their members were covered by the risk pools. These benefits were negotiated at the local level with cities and towns.

They were collectively bargained benefits owed to the members for the contributions and rates they paid as employees, in addition to the contributions made by the political subdivisions.

- Mr. Ryll stated they discovered significant insolvency concerns. He explained through a review of minutes and meetings for the Board of Directors of these risk pools, they found in part to save money, the Boards had decided to cut member benefits. Some of these cuts included imposing a deductible funding limit, cutting or changing retiree benefits, and cutting anti-obesity medications and consumer-driven programs that provided incentives for employees to shop for their health care. Mr. Ryll stated these programs and benefits had been negotiated, and their members paid certain rates for them. He specifically mentioned his group had recently increased their contribution by an additional 3 percent acquire these benefits, but these benefits had been taken from their members.
- Mr. Ryll stated that problem was the risk pools were owned and operated by the political subdivisions. When the Boards of Directors for these risk pools cut benefits, it circumvented the negotiations they had worked so hard to achieve with their cities and towns. He expressed hope the bill would provide additional oversight, regulatory authority, and, most importantly, accountability to ensure that cities, towns, and employees were charged fair rates for the benefits they had earned and negotiated.
- Senator Watters clarified there seem to be two main issues: first, making sure the risk pool is charging enough to cover the benefits negotiated in contracts, and second, whether the risk pool has the authority to target or alter those benefits. He noted while the bill might address the financial side (ensuring enough funds to cover claims), he wasn't sure if the bill provides adequate protection for the negotiated benefits, especially in terms of giving transparency or ensuring the risk pool respects those benefits. Mr. Ryll stated, unfortunately, he doesn't believe the bill addresses the second concern—ensuring that negotiated contractual benefits are protected. He agreed the bill would help ensure there is enough money in the risk pool to cover claims, which may help prevent benefits from being cut. However, the broader issue of benefit cuts being made by the risk pools is something Mr. Ryll feels isn't directly addressed by the bill. He explained much of the problem stems from practices of the risk pools, which, when cutting benefits, lead cities and towns to claim there is nothing they can do about it. According to Mr. Ryll, this allows the cities and towns to absolve themselves of their responsibilities, even though they still have a legal obligation to follow other laws.

Summary of testimony presented in opposition:

Scott DeRoche, Executive Director, and Jeanne Herrick, General Counsel, HealthTrust:

- Director DeRoche disagrees with a number of assertions that were made in Mr. Li's testimony. He stated a number of the things that were said are not currently done by HealthTrust, such as the scholarship programs. He stated they have also not affected the drug coverage for Ozempic.

- HealthTrust opposes SB 297-FN in its current form for numerous reasons, and believes it is fatally flawed in substance. He stated the bill unconstitutionally shifts the risk of losses from pooled risk management programs to the political subdivisions. He claims if SB 297-FN is passed it would prevent HealthTrust from offering the medical coverage the public sector has come to rely on.
- Director DeRoche stated since 1987 New Hampshire's cities, towns, counties, and school districts have participated in pooled risk management programs established pursuant to RSA 5-B. Access to pooled risk management is needed now more than it was in 1987.
- Under these pooled risk management programs the risk for medical workers' compensation, property, and liability claims is transferred from the individual political subdivisions to the risk pool. If enacted, SB 297-FN will shift the risk from the pooled risk management programs to the cities, towns, counties and school districts. He stated this shift contradicts the very purpose underlying the enactment of RSA 5-B and the intent of the law. Director DeRoche also said SB 297-FN would violate Part One, Article 28-a of the New Hampshire Constitution.
- HealthTrust does not decline to quote any eligible political subdivision and currently serves 191 municipalities, 6 counties, 85 school districts, and 74 other governmental entities such as water districts, libraries, and fire districts. These entities represent employers with very few employees to nearly 1,000 employees. HealthTrust provides a range of plans so that New Hampshire public sector employers can find the one that best suits their needs. He stated over the last 10 years, both nationally and locally, health care affordability for employers and employees has become a major issue. This issue became more pronounced during and after COVID, with claims volatility spikes resulting from individuals initially postponing care and then later seeking it. These spikes further complicated the complex process of establishing renewal rates and highlighted the need for risk pools to maintain adequate capital.
- Director DeRoche explained the contingency reserve level, what it is, and why 12 percent to 16 percent is too low and too narrow for HealthTrust. He stated at the end of each fiscal year, HealthTrust engages Milliman, a highly regarded actuarial firm, to perform an actuarial evaluation. This evaluation assesses the adequacy of contributions needed from participating groups, and the reserves necessary to meet claims expenses and other projected needs of the plan. The amount they claim to be needed for contingency reserves is included in this actuarial evaluation. HealthTrust refers to this as the Capital Adequacy Reserve.
- Director DeRoche stated an adequate contingency reserve is needed because HealthTrust is a risk bearing entity, very much like a health insurance company. A risk bearing entity attempts to predict what will happen in the future, and its actuaries calculate contributions and reserves needed to cover expected claims and related expenses each year. He stated HealthTrust must also plan for when things do not go as expected, such as when claims rebounded after COVID. The purpose of the contingency reserve is to ensure if things don't go as expected, all future obligations for claims and expenses can be fully paid.

When things go better than expected, HealthTrust returns all surplus amounts above the contingency reserve level to participating groups.

- Director DeRoche argued the proposed legislation would limit the amount of contingency reserve to 16 percent of contributions for the then-current fiscal year which he claimed is much too low. He stated current contributions are expected to be \$470 million for Fiscal Year 2024. Milliman's actuaries recommended HealthTrust set a target contingency reserve between \$95 million and \$150 million. The minimum level calculated by Milliman is \$95 million, which is 20 percent—4 percent higher than the maximum allowed under the bill and 2 percent higher than the maximum allowed under proposed Amendment #2025-0676s. The most HealthTrust could retain under SB 279-FN is 4 percent lower than the minimum amount HealthTrust's actuaries say is needed. At 16 percent, HealthTrust would be undercapitalized by nearly \$20 million.
- Director DeRoche addressed HealthTrust's concern that levying assessments on the political subdivisions participating in the program is unconstitutional and an untenable shifting of risk of loss from the pooled risk management programs to the political subdivisions. SB 279-FN would require that participating cities, towns, counties, and school districts pay an assessment within 30 days for certain shortfalls that may occur at any time during the year. Director DeRoche claimed the bill would prohibit HealthTrust from maintaining adequate capital, and shift the burden of losses to the participating members. This shift not only contradicts the very purpose of RSA 5-B, but it also assigns new responsibilities to political subdivisions. He stated this shift of responsibility likely violates Part One, Article 28-a of the New Hampshire Constitution and also creates a massive challenge for political subdivisions, which often operate on limited budgets approved by voters each year. There is no need for statutory requirements that require risk management programs to levy assessments on political subdivisions.
- HealthTrust has a process for rebuilding capital that is in place and consistent with industry standards. Further, the statutory mandate in this bill that such assessments for unexpected losses be collected within 30 days of an event is untenable, as political subdivisions would not have the funds available to pay for such assessments.
- Director DeRoche then explained how HealthTrust believes the new definition will impact pooled risk management programs. He stated the narrow definition of "administration" appears intended to significantly limit the type of expenses that may be retained by a program when determining how much surplus must be returned. HealthTrust consistently outperforms the commercial market in part due to robust risk management programs. Rather than simply paying for claims, these programs actually reduce future claims exposure. He also stated the use of the word "reasonable" in the definition raises concerns that the Secretary of State's staff may dictate day-to-day operations in a way that would prevent the HealthTrust Board of Directors and executive team from carrying out their fiduciary duties. HealthTrust follows actuarial standards that align with industry practices for like organizations.

- Director DeRoche stated by forcing New Hampshire cities, towns, counties, and school districts to bear the risk of required undercapitalization, SB 297-FN threatens the very existence of the pooled risk management program that HealthTrust has offered, which has served the vast majority of public sector employers well for over 40 years. SB 297-FN would limit coverage choices at a time when, due to recent claims experience, some political subdivisions are not even able to get a quote for medical coverage in the commercial market.
- Senator Rosenwald stated Mr. Li mentioned that HealthTrust was intentionally undercharging contributions. She asked if it would make sense to have a higher contingency reserve fund since HealthTrust is not collecting enough to begin with. Director DeRoche answered HealthTrust hires actuaries for various purposes, with one being to determine recommended rates, taking into account medical trends, utilization increases, new medications, etc. They receive reports with rate recommendations based on these factors. Director DeRoche stated he was not sure what the "artificial lowering" of rates refers to, but it could be related to modeling, such as whether plan changes are implemented over one or several years. The actuarial analysis conducted showed the losses were driven by misestimations in trend, not by undercharging. For example, HealthTrust had expected a trend increase of around 8-9 percent but saw over 20 percent in prescription drug costs. Senator Rosenwald said committee members received information from one of HealthTrust's members regarding changes, including discontinued prescription drugs, funding caps on deductibles, altered retiree health plans, and eliminated wellness programs. She asked if Director DeRoche could elaborate on same. He answered after reviewing the Fiscal Year 2023 and Fiscal Year 2024 losses, HealthTrust identified opportunities for improvement. Some wellness programs weren't proving beneficial for the pool, so they stopped funding them. HealthTrust also stopped covering certain anti-obesity medications like Wegovy, but continued coverage for FDA-approved drugs for diabetes. Regarding funding caps, HealthTrust did not set caps on deductible funding by members. This was left to individual political subdivisions. HealthTrust later recommended restricting deductible funding to 50 percent, which is an industry standard, and the board adopted same. As for retiree benefits, they moved from a Medigap plan with prescription drugs to a Medicare Advantage plan, which provided significant savings and received positive feedback from retirees.
- Senator Birdsell stated Director DeRoche consistently mentioned any shortfall would fall on municipalities, and that public risk pools are collective. Senator Birdsell asked Director DeRoche who else would share the burden of shortfalls, if not the contributors. Director DeRoche answered HealthTrust is a self-funded risk pool, meaning they carry the risk. He explained companies like Anthem, as a TPA, do not hold risk but HealthTrust, Inc. does. He stated if there is a shortfall, HealthTrust needs to cover it, which is why they are advocating for sufficient reserves. If a political subdivision is not self-insured, it does not have to cover the shortfall. It only pays its contribution rate. For example, in the past, HealthTrust had a small number of self-insured groups, but those are rare now. Health Trust also maintains other reserves, like the IBNR (incurred but not yet

paid) reserves, to handle claims runout. Director DeRoche stated if HealthTrust were to stop coverage, these reserves would handle the claims. Political subdivisions wouldn't be responsible for any shortfall.

- Senator Lang asked whether there is any statutory requirement for the size of the risk pool or contingency reserves, specifically if the pool size is dictated by any state standard. Director DeRoche clarified HealthTrust follows the recommendations of qualified actuaries. They retain one of the largest actuarial firms, Milliman, to provide an annual study that includes the required capital adequacy reserve range. The latest report calculated a range of \$95 million to \$150 million. He explained this is based on a stochastic model using Monte Carlo simulations, which runs 10,000 scenarios to predict financial viability over a 5-year period. HealthTrust's Board sets the reserve target within this range, historically choosing the lowest end. For fiscal years 2023 and 2024, due to pricing flexibility issues, the board set the target at \$12.5 million. Atty. Herrick added the statutory requirement only obligates risk pools to undergo an actuarial evaluation. There is no established state standard for the contingency funds. Senator Lang asked whether there are statutory guardrails or a state standard for the risk pool contingency funds. He wanted to know if there is room for actuary shopping, and whether there are specific state-set guidelines. Atty. Herrick confirmed there is no state standard for risk pool contingency funds beyond what the actuaries determine. She explained RSA 5-B:5 1(f) requires annual actuarial evaluations to assess reserve needs, but it doesn't establish an explicit standard. Atty. Herrick emphasized the only standard is what actuaries conclude based on their analysis, and there is potential for variability between different actuaries.
- Senator Watters asked whether the actuarial standards might change over time, as market conditions evolve. Director DeRoche agreed this would be the case, noting actuarial standards may change because projecting risk is not an exact science. He emphasized the standards need to be able to adapt to changing risk scenarios in the market. He stated the standards proposed in the bill (12-16 percent) are too low, but HealthTrust's actuaries recommend maintaining a higher reserve level (around 20-21 percent) to ensure stability over the long term. The reserves should be built to cover unexpected large-scale risks like a pandemic or other major events, which could require substantial funds.
- Senator Gray asked what in the statute allows the risk pool to set up a corporation. How would that corporation be protected from insurance regulations or other statutes? Atty. Herrick responded according to RSA 5-B:5, HealthTrust is already organized as a legal entity under New Hampshire law. However, if HealthTrust were to form a corporation separate from the risk pool, it would be subject to insurance regulations and would potentially face complications. She stressed HealthTrust is currently operating within the existing statutory framework, which doesn't involve forming a separate corporation and being subject to additional insurance regulations.
- Senator Gray suggested amending the bill to allow flexibility in setting reserve percentages, proposing a limit of 20 percent for 4 years, with the ability to revisit the issue later. Director DeRoche expressed concern and signaled he felt

better about 21 percent. Senator Gray continued he would be willing to go to 21 percent. Director DeRoche indicated he would need more time to review the bill and its impact. He also pointed out maintaining a higher reserve percentage would result in higher rates for members, which could be an issue for some. Senator Gray asked what HealthTrust would need to get the bill passed. Director DeRoche responded there is a fundamental disagreement on the actuarial view, and while he appreciates the effort of the committee to work with HealthTrust, he still needs to be able to review and model before HealthTrust can commit. Senator Gray said at 21 percent he would expect them to reach that percentage and that also means that the rates for people who have joined the risk pool are going to be higher. Director DeRoche stated they are currently pursuing a level higher than that, and they are in a three-rating-cycle rebuild plan to get to the \$122.5 million, which would be greater than the 20 percent or 21 percent.

- Atty. Herrick reiterated HealthTrust received the bill on Tuesday, February 25, 2025, and that they have not had the time to review it with their actuaries.
- Senator Rosenwald questioned why HealthTrust had not maintained more than 7 percent in reserves over the last 3 years, given the organization now seeks to have at least 20 percent. She also asked why the bill's proposed 12-16 percent reserve corridor would result in lower rates and potential refunds to political subdivisions. Director DeRoche acknowledged HealthTrust was undercapitalized at present but explained the board had implemented a plan to rebuild reserves over 3 years. He emphasized the reserves had worked as intended during the COVID-19 years, helping cover extraordinary claims. The savings that would result from the bill's proposed lower target reserve would allow the reserves to be replenished faster, but Director DeRoche expressed concern the lower target would increase volatility and make it harder for subdivisions to plan their budgets.
- Senator Lang stated he would not support changing the reserve corridor to 20% percent but that he would consider a flexible approach that would allow companies to request an increase in reserves by 1-5 percent based on the Board's vote, rather than mandating a fixed rate increase.

Jeff Reardon, New Hampshire Interlocal Trust

- Mr. Reardon outlined the background of NHIT, which began offering health plans to political subdivisions in 2012 in partnership with Harvard Pilgrim Health Care. He explained NHIT serves only political subdivisions in New Hampshire and currently covers 2,200 employees from 28 member groups. Mr. Reardon mentioned NHIT partners with several professional firms for financial and actuarial support, and its annual audit is publicly available.
- Mr. Reardon explained NHIT is not opposed to new legislation but cannot support the bill in its current form. He said all stakeholders should have been consulted during the drafting process, including political subdivisions, pools, and industry experts like AGRIP.
- Mr. Reardon voiced concerns about the bill's potential harm to members, specifically mandatory assessments and full replenishments. He pointed out political subdivisions lack mechanisms to plan for surprise bills mid-fiscal year,

and such measures would create instability. Mr. Reardon also described NHIT's current rebuild scenario after COVID-19, where it had to return about \$5.5 million to members due to artificially low claims during the pandemic. He argued this demonstrated the importance of contingency reserves but stressed that full replenishments would result in high rates for members. He advocated for a gradual build-up of reserves, which NHIT has been working on and expects to complete within 3 to 5 years.

- Mr. Reardon noted that the 12-16 percent contingency reserve target is too low, potentially leading to volatility and instability, which would not meet the expectations of NHIT's members. He expressed concern about the lack of clarity in some parts of the bill, and suggested a more collaborative process to better define the bill's components and assess its long-term impact.
- Mr. Reardon stated while NHIT is not opposed to new legislation, changes should be made in collaboration with pools, political subdivisions, and industry experts.

Scott Dunn, Gilford Town Administrator:

- Administrator Dunn stated he has been a Town Administrator in New Hampshire for over 30 years, providing him with a unique perspective on self-funded pools. He described his experience with various pools, including when Primex was solely a workers' compensation insurer, when PLT (Primary Liability Trust) went out of business, and when HealthTrust was a division of NHM. Administrator Dunn argued all self-insurance pools should be moved from under the Secretary of State's office to be regulated by the Insurance Department, as the department has far more expertise in regulating such entities.

Daniel Rossner, Business Administrator, SAU 48, Plymouth:

- Administrator Rossner stated SAU 48 is a complex and geographically large school district comprised of 9 independent districts in New Hampshire. He expressed concerns about the proposed legislation, particularly its disregard for the concept of pooling, which is essential in risk management. He emphasized pooling allows for the sharing of risk among members, preventing a single group from absorbing the full loss or gain in any given year.
- Administrator Rossner specifically addressed the potential financial impacts of the assessment abatement provision. He explained school district budgets are set in March and are based on property tax collections, with wages and benefits typically accounting for 70-75 percent of the budget. These costs are generally locked in before the school year starts. If risk pools were required to collect assessments or abatements, Administrator Rosner questioned where the funds would come from, as school districts rarely have surplus funds. He also raised concerns about being forced to cancel contracts or programs to fund prior year insurance costs, noting that school districts don't carry large fund balances like towns.
- Administrator Rossner also briefly mentioned the issue of capital reserves, pointing to the 2014 Supreme Court decision that required actuarial evaluations of pool reserves. He argued the reserve levels proposed in this legislation are too low compared to what actuaries have deemed appropriate. He warned if the

pools become insolvent, the state could end up assuming liability. He also questioned the financial impact on taxpayers, suggesting the proposed changes could result in higher costs for local taxpayers, potentially paying more to support private insurers' profits and tax liabilities.

- Senator Lang focused on the issue of the assessment of participating members after an actuarial calculation. Specifically, concerns about collecting mandatory assessments within 30 days of notice. Senator Lang asked Administrator Rosner to elaborate on the budgeting process and cash flow issues for municipalities and school districts, as these entities may not have the funds readily available to cover such unexpected assessments. Administrator Rosner explained school districts often face challenges when an unexpected expense arises, especially when the budget has already been set. For instance, he will go to Campton's annual school district meeting, where they will vote on the budget for the upcoming year. This budget is based on fixed rates provided by HealthTrust, not a guaranteed maximum rate like in past years. However, if there are unexpected losses after the budget is approved, the school district may receive an assessment bill, but the funds to pay it are already allocated and unavailable. Administrator Rosner emphasized this situation creates a problem because the school district doesn't have the necessary cashflow to handle such an unexpected cost. Senator Lang acknowledged unbudgeted expenses do arise, such as with special education, and asked Rosner how the district would handle such unbudgeted expenses. Rosner agreed with the Senator that unexpected expenses, such as special education costs, do arise, and districts must have some flexibility to accommodate those costs. However, he emphasized that health benefits make up a significant portion of a school district's budget, ranging from 10 to 14%. Due to the large size of health benefit expenses, Rosner said that he sees a much greater risk if a large, unanticipated expense, like an additional assessment, comes up.
- Senator Gray commented that because the town has entered into a self-insurance agreement, they have already accepted the risk of having to pay whatever is required for the self-insurance. Rosner disagreed with Senator Gray's characterization of the situation. Senator Gray clarified Health Trust is part of the district's risk pool. While Health Trust claims to have legally created a corporation to shield the district and its member groups, Senator Gray disagrees with that interpretation. Gray stated that they are seeking advice from legal authorities in the state to clarify this matter. Gray also commented that while the district has received a firm fixed price for the year, there are concerns about the broader implications and risks involved in such self-insurance agreements.

Michael Cryans, Board Member, NHIT

- Mr Cryans shared his experience as a county commissioner for 19 years, noting how difficult it is to create a budget, especially as funds are often trimmed during the process. He also served on the Executive Council for two years, overseeing 103 towns and four cities, some of which were very small.
- Mr. Cryans expressed his concern about how small communities, in particular, would handle the sudden imposition of a large bill related to these assessments

or replenishments. He emphasized that personnel costs, such as payroll and insurance, make up a large portion of a town's budget, making it difficult to manage unexpected costs. In closing, he urged that the potential impact on these small communities be carefully considered.

Kate Horgan, New Hampshire Association of Counties:

- Ms. Horgan stated that the association is opposed to the bill for several reasons. She explained that counties often struggle to find reasonable rates through commercial insurance due to the high-risk nature of their work, which includes managing nursing homes and jails that are frequently involved in litigation. As a result, they rely on risk pools as their primary option. Horgan expressed concern about the 30-day deadline for replenishment funds, as mentioned by the former commissioner, and how it would impact county budgets. She recommended retaining the bill to allow for further discussion with all stakeholders.
- Ms. Horgan offered to take questions but noted that many would need to be referred to her colleague, Stacy.
- Senator Watters posed a question regarding the timeline and potential contingencies in the bill. He noted that the bill would provide a deadline of 2028, which suggests that, between now and then, there should not be a major emergency situation. However, recognizing that emergencies can occur, he asked if it might make sense to have some capacity for rulemaking to address any unforeseen issues, particularly when it comes to the potential for assessments. He suggested that if the bill is passed, rulemaking could serve as an opportunity for stakeholders to work out any necessary measures in case such a contingency arises. Horgan thanked Senator Watters for his question and acknowledged the importance of rulemaking. She explained that while rulemaking is not currently part of the bill, it would indeed be very helpful. Senator Watters emphasized that rulemaking provides clarity for all involved parties, ensuring that processes and responsibilities are clearly defined. He stated that rulemaking could help address sections of the bill. Ms. Horgan said she would relay these comments to her colleague, Stacy, and get additional feedback from her, which would be shared with the committee promptly.

Scott Gross, Business Administrator for SAU 19, Goffstown New Hampshire

- Administrator Gross expressed concerns about Senate Bill 297, primarily because he believes it is moving too quickly. Drawing from his 30 years of experience in the insurance business, he emphasized that the bill is a complex topic and that its rushed progress is worrisome. He noted that agencies, including the Insurance Commissioner, only received the bill a week prior, which he finds troubling given the seriousness of the issue.
- Administrator Gross further shared his perspective on solvency and pointed out that SB297's narrow solvency corridor could be problematic. He explained the complications involved in returning surplus funds to towns and individual members. This process can take a significant amount of time, with businesses having to send checks to various individuals, some of whom may not be easy to contact. He also mentioned that these funds sometimes end up being unclaimed, leading to issues with abandoned property. Given this complexity, he suggested

that it may be better to have a broader solvency band to avoid the challenges of returning surpluses.

- Administrator Gross also reflected on the decision to return surplus funds in the past, stating that, in his opinion, the money should have been retained, especially after the pandemic when there were expectations of future financial surges. While he's not privy to the decisions of the risk pool boards, he believed that the decision to return funds didn't make sense given the circumstances.
- Administrator Gross compared the situation to private-sector pensions, which are backed by a Pension Benefit Guarantee Fund. He suggested that a similar state guarantee fund could be considered as a backstop for solvency issues in these risk pools. He concluded by stating that while the bill's goals are noble, more time and collaboration with stakeholders are needed to address the complexity of the issue and explore other options.
- Senator Gray inquired about the options available when the state's actuary states that two funds are at risk of becoming insolvent by the end of the year. They expressed concerns about moving too quickly on the bill and suggested that getting another actuarial opinion could be beneficial to provide more clarity, similar to seeking a second opinion in medical cases. Gross agreed that actuaries often have differing opinions and that seeking another actuarial opinion could be useful in complex situations like this. He emphasized the importance of having more information before making decisions and expressed concern that the bill is moving too quickly without enough time for a thorough review. He questioned why the issue was not raised earlier (e.g., 18 months ago) and why the committee is now being forced into immediate action. Gross pointed out that the risk pools had taken corrective actions, but there was a disagreement between the state's actuary and those hired by the risk pools. He suggested that more discussions around the data and assumptions might have helped resolve the issue.
- Senator Lang asked about the idea of having a corridor in the statute for solvency, specifically whether it would protect municipalities. Lang acknowledged the debate over the percentage range (12% or 20%) but emphasized that a minimum expectation is necessary for solvency and questioned what the maximum percentage should be. Gross agreed that there should be minimum solvency expectations to protect municipalities, but expressed uncertainty about what the maximum percentage should be. He stressed the importance of regulations to ensure the solvency of the risk pools, especially as this is a critical issue. He also noted that the insurance department's commissioner was present during the hearing, which was valuable given their expertise in insurance matters. He suggested that the Insurance Department's involvement would be more suitable in this case than the Secretary of State's office, given their specific knowledge in insurance.

Neutral Information Presented:

Lisa Duquette, Executive Director, SchoolCare

- Director Duquette has served in this capacity for the past 19 years and she has an additional 10 years of public entity risk experience. She stated that SchoolCare provides health benefits to public sector employees, their dependents and retirees not only across New Hampshire but throughout the US.
- School cares board met on Friday afternoon and have taken a neutral position on the bill based on their internal analysis that SchoolCare is operating consistently within the terms that are in the proposed legislation. the proposed
- Director Duquette stated that SchoolCare may have a few comments regarding ambiguity in some of the language in SB 297. For example, SchoolCare would like to see clarification that assessments are very different than replenishments and that assessments would only be a last resort.
- Director Duquette stated that she also provided testimony regarding schools versus municipalities. School districts don't necessarily have the ability to pay unexpected assessments on a midyear basis.
- The packet from Hua Li's testimony shows that SchoolCare is operating within the terms of the proposed legislation.

Ty Gagne, Chief Executive Officer, Primex

- CEO Gagne has been the CEO of Primex for 17 years with 22 total years of public entity pooling. He stated that SB 297 as introduced raised concerns for Primex and they are not in a position to support the bill.
- CEO Gagne stated that at the pool's meeting last week with Senator Gray and Secretary Scanlan and his team, Primex expressed concern that contingency reserve replenishments should have some flexibility and that the administrative expenses should include the risk management services provided by pools. Primex received the amendment to SB 297 on Monday March 3rd. Gagne stated that upon review and analysis the amendment addressed Primex's two major concerns. At another meeting hosted by the Secretary of State's team they learned more about how contingency reserve replenishments would work under the amendment. They also learned about the projected impacts and timeliness to rebuild contingency reserves. Gagne stated that the impacts were not as significant as Primex had expected. He stated that the amended SB 297 appears to contain adequate flexibility to address contingency reserve replenishment. Primex's pool covers risk that is different from the other pools. It is operational risk and therefore Primex cannot speak to the health pool concerns.
- Primex with respect to their program, is willing to give amended SB 297 a try. They anticipate that the Secretary of State and his team under the language of the amendment will work with Primex to accomplish contingency reserve replenishment if it is ever needed. Primex agrees that pool solvency is very important and that their regulator should have appropriate tools to handle pool insolvency.

D.J. Bettencourt, Commissioner, New Hampshire Insurance Department and Keith Nyhan, Deputy Commissioner, New Hampshire Insurance Department

- Commissioner Bettencourt stated that he was present today because he suspected his department might be mentioned during the discussion. While he did not want to get more involved in legislative matters this session, he emphasized that his department shares many of the concerns raised from a

consumer protection standpoint, particularly regarding the financial solvency of companies doing business in New Hampshire.

- Commissioner Bettencourt explained that it is crucial for companies to remain financially solvent to pay claims to consumers. He mentioned that, while he was not intimately familiar with the current situation, his department has heard rumors of financial challenges and, as a result, is aware of some of the issues at hand. He acknowledged that the public, legislators, and entities have expressed a preference for the insurance department to oversee such matters, but he clarified that this is ultimately a policy decision for the legislature. He assured the committee that if the legislature decided to move forward with this, the department would be willing to take on the responsibility.
- Commissioner Bettencourt pointed out that the New Hampshire Insurance Department regulates 1,200 carriers, including 60 domestic insurance companies. The department has a Financial Regulation Unit, consisting of six analysts, three examiners, and three actuaries. Bettencourt explained that the department's main goal is to ensure that premiums are actuarially sound and sufficient to cover potential claims. Adding four additional entities to the department's oversight would not be a significant burden.
- Commissioner Bettencourt further clarified that the department would work with the actuaries of these entities to oversee their reserves, premiums, and financial stability. The department uses standards set by the National Association of Insurance Commissioners (NAIC), which is a collective of state regulators.
- Commissioner Bettencourt reiterated that the decision to assign this responsibility to the insurance department is up to the legislature. He stated that an amendment would be necessary to update the insurance statutes, but assured the committee that the department would be prepared to handle the responsibility if it were assigned.
- Senator Waters thanked the chairman and the commissioner, asking if it would be appropriate to express certain standards and operations legislatively, particularly concerning the contingency and methods outlined in the bill, if it were to be moved to the insurance department. He acknowledged that the commissioner might not be able to respond immediately but wanted to know how the department would approach such a situation. Bettencourt replied candidly, stating that he had only seen the bill about 20-25 minutes ago, so he was at a bit of a disadvantage. However, he assured the senator that the department would carefully review what was proposed and contrast it with the existing standards and factors they currently take into account. He emphasized that the department would make sure that the proposed changes worked and bring stakeholders together to ensure they understood how the new regulations would operate in practice.
- Senator Lang thanked Bettencourt and asked, regardless of who runs the program, if establishing contingency reserve corridors would be good consumer protection, particularly for towns, cities, and schools, to protect companies from going out of business. Bettencourt responded, saying that ensuring adequate reserves is fundamental to whether a company is financially healthy and

solvent. He explained that the nature of insurance is unpredictable—some years could see few claims, while others could bring a surge of claims. He stated that a buffer is necessary to handle years with higher-than-expected claims and ensure the company remains financially capable of addressing those claims. Senator Lang then pressed for a simple answer, asking if Bettencourt thought it was a good idea to establish such corridors. Bettencourt affirmed, saying "Yes, sir,".

- Senator Gray posed a question regarding the statute, asking whether the entities in question could form a corporation and if they would still receive the protections from insurance laws under the current statute. He asked Bettencourt to consult with his legal experts and get back to him. Bettencourt assured the senator that he would consult with his legal team and respond as soon as possible. He indicated that, based on what he had heard, the department would specifically look at how financial solvency standards could apply to these entities, without necessarily applying the full range of other regulations that the department oversees.
- Senator Rosenwald followed up with a two-part question: if the entities came under the insurance department's oversight, would that jeopardize their nonprofit status, and since the department is self-funded and assesses all carriers it regulates, would the department need to charge a fee to the pooled trusts, which would then be passed on to the cities and towns? Bettencourt acknowledged that it was a very good question. He explained that it was something new for the department, but not entirely outside the scope of their responsibilities, as they already regulate some entities that do not traditionally fall under insurance. He said he would need to consult with his legal team to understand how assessments might apply in this situation and how the department handles similar scenarios.

bb

Date Hearing Report completed: March 11, 2025