

Banking, Commerce and Insurance Committee March 18, 2019

WILLIAMS: Afternoon, everyone, and welcome to the Banking, Commerce and Insurance Committee hearing. My name is Matt Williams. I'm from Gothenburg representing Legislative District 36, and I'm privileged to serve as Chairman of the committee. The committee will take up the one bill we have today, and want you to know that this is your part of the public legislative process. And this is your opportunity to express your position on the proposed legislation. The committee members will come and go during the hearing. We have bills to introduce in other committees and are sometimes called away. It's not an indication we are not interested in the bill being heard in the committee just part of the legislative process. To better facilitate today's proceeding, we ask that you abide by the following procedures. Please silence or turn off your cell phones. Please move to the front row when you are ready to testify. The order of testimony will be the bill's introducer, followed by proponents, followed by opponents, any neutral testimony, and then we'll ask the senator if he would like to close on the legislation. Testifiers, please sign in and hand your pink sheets to our committee clerk when you come up to testify. And when you begin your testimony, if you would, please spell your first and last names for the record. And we ask that you be

concise. We will be limiting testimony today to five minutes, and we do use a clock. So the green light will be on for the first four minutes, the yellow light for the next minute followed by the red light. And we would appreciate if you would conclude your testimony when the red light comes on. If you will not be testifying at the microphone but want to go on record as having a position on a bill being heard today, there are white tablets at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become part of the permanent record at the end of today's hearing. Written materials may be distributed to committee members only when you are testifying. Please hand them to the page for distribution to the committee-- and this-- when you come up to testify, and we need ten copies. And if you do not have those copies, if you would raise your hand, our page will go make those copies for you. To my immediate right is committee counsel, Bill Marienau. To my left at the end of the table is committee clerk, Natalie Schunk. Committee members that are with us today, we'll have them introduce themselves starting with Senator McCollister.

McCOLLISTER: Thank you, Senator Williams. John McCollister, District 20, central Omaha.

KOLTERMAN: Mark Kolterman, District 24, Seward, York and Polk Counties.

QUICK: Dan Quick, District 35, Grand Island.

LINDSTROM: Brett Lindstrom, District 18, northwest Omaha.

La GRONE: Andrew La Grone, District 49, Gretna and northwest Sarpy County.

GRAGERT: Tim Gragert, District 40, up in northeast Nebraska's Dixon, Seward-- Holt, Knox, Dixon and Hamilton-- not Hamilton, Jesus, never mind. [LAUGHTER]

WILLIAMS: When you've had as much flooding as Senator Gragert has had, you'd like to give some of those counties--

GRAGERT: Yeah.

WILLIAMS: --to someone else, I'm sure, right now.

GRAGERT: Boyd.

WILLIAMS: And our page is Kylie today. Thank you for being with us and for your service all year long. This is our last day of public hearings. So with that, we will open the public hearing on LB573 with Senator Matt Hansen to change provis-- provisions

relating to agreements under the Intergovernmental Risk Management Act. Welcome, Senator Hansen.

M. HANSEN: Thank you, Senator Williams. Good afternoon, members of the Banking, Commerce and Insurance Committee. For the record, my name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent the 26th Legislative District in northeast Lincoln. I'm here today to introduce LB573. I agreed to sponsor LB573 after an extensive conversation with the League Association of Risk Management or LARM. LARM has identified issues that should be addressed within the Intergovernmental Risk Management Act. I believe it is important that some of the areas of the act be reviewed and clarified. I'm aware that LARM and the League of Nebraska Municipalities are engaged in litigation over the interpretation of some portions of those statutes. Frankly, I'm not that interested in that litigation nor should this legislation be used to resolve that specific litigation. Rather I believe, we have an opportunity with the Banking, Commerce and Insurance Committee to review the act to determine where clarification or updating would be appropriate. My primary concerns involve two specific principles. First, that public dollars should be used for public purposes and that public entities should receive goods or services in exchange for any of the expenditure of public funds. Second, I believe that there

should be a more efficient process to resolve disputes over board elections of public entities than spending the time and effort in court. Surely we can agree that these principles reflect good public policy. Aligning public policy with these principles will result in the efficiency in the use of public dollars. If dollars are wastefully spent on-- on lawyers that are-- are-- that are wastefully spent on lawyers are kept in the risk pool, premiums paid by public members of the pools will be reduced. I'm aware that some intergovernmental risk management pools have concerns with language in this bill. I'm not in any way tied to the specific language in this legislation. I'm wide open to better language if the committee identifies some. My purpose is to address those two principles before some other dispute arises. I would much rather be explaining amendments to this bill than explaining to the public why we didn't step forward when a problem came to light. As I mentioned, I'm happy to work with the committee and all interested parties to find language that we could achieve-- achieve these two principles without interfering with their ability to provide lower cost insurance to public entities. With that, I'll thank the committee and close my opening.

WILLIAMS: Thank you, Senator Hansen. Questions for the senator? Seeing none, will you be staying to close?

M. HANSEN: I will stay as long as I can, but I do have bills on another committee.

WILLIAMS: OK.

M. HANSEN: Thank you.

WILLIAMS: We'd invite the first proponent to testify. Welcome, Mr. Lindsay.

JOHN LINDSAY: Thank you, Senator Williams, members of the Committee. For the record, my name is John Lindsay, J-o-h-n L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of the League Association of Risk Management. I think Senator Hansen laid-- laid out the-- the case for the bill pretty well starting with the fact that we're not tied to the language in the bill. We're tied to resolution of some conflicts that I think everybody in the room would agree that there's been some conflicts. The problem is that there's public dollars being spent trying to resolve those conflicts. And if there's a way to-- to head off this type of thing in the future, I think it's incumbent to take those steps forward. The bill is not-- the bill's not going to resolve any, I don't believe, any existing litigation that's ongoing. I think that ship has sailed, and I think it's pretty well long. And I think the courts are going to

end up determining that, but I don't think there will be any refunds on legal fees. And I think those are public dollars that simply are gone. I think as we go through-- some of this is-- I think stems from the fact that I don't believe the pool-- I would defer to committee counsel on whether this act has been revisited in the last 32 years since it was adopted. His memory is much longer than mine. But I think-- I don't think since 1987 we've had significant changes to it. So I think it-- it bears, certainly in light of some-- some things that have not worked out well, I think it does bear some-- it does bear some looking at. And I would concur with Senator Hansen that those two principles, that public dollars should be used for public purposes in exchange for goods or services and that there should be a more efficient way of making sure that the governing boards are-- are-- are elected in a manner that's consistent with the public interest. Not, again, not tied to language on that, just thinking that those principles should be-- should be enforced. And that's-- that's what we're here arguing for today. I've distributed to you, and you would have-- you may have already received it via e-mail, but I've distributed to you a letter from-- from Lane Danielzuk, and I hope I pronounced it right, who is a city administrator of Gering. He is obviously-- weather has interfered with his ability to be here. I think that lays

out everything pretty well as far as what the issues are and-- and-- some-- how we got here. And again I reiterate, litigation is not going to be decided in the Legislature. This is about moving forward. How do we correct some problems that have arisen? And that's what we're asking for. We are happy to sit with-- with the committee to try to come up with-- if there is other language I think as we-- the bill was being drafted, I think there were some issues identified in the language that-- that maybe don't match the-- where we are today as far as insurance regulation or pool regulation that may-- that should have-- or should be updated. Some of those changes, I know, are bothersome to some of the other pools, and hopefully they'll point out which of those sets of language are bothersome to them because if-- if-- if it's working and it's not posing a problem, then does-- it wouldn't need to be changed. But the-- some of those concepts that were brought up, again, not tied to in any way about term limits or staggering elections or things like that, are simply things that-- that should be considered. Again, I urge the-- urge the Committee to-- to look at the bill within the context of resolving those legitimate public policy concerns. And again, would offer to be readily available to work out any, if any, language that may be appropriate to adopt. We're just asking that for maybe the benefit of other pools in

the future, or even our pool in the future, that we get ahead of some of these problems. With that, Mr. Chairman, I'd be happy to try to answer any questions.

WILLIAMS: Questions for Mr. Lindsay? Senator La Grone.

La GRONE: Thank you, Chairman Williams. Thank you, Mr. Lindsay, for being here. You mentioned there is some ongoing litigation. Obviously anytime another branch is already dealing with an issue, I'm curious as to, you know, we wouldn't be cognizant of that so I'm curious as to how this bill may or may not impact that litigation from your perspective.

JOHN LINDSAY: I think that litigation is, let me be clear, I'm-- while I'm a licensed attorney, I consider myself a recovering lawyer. I don't practice law. And I am not involved in the litigation. From my understanding, which I say-- mention is limited, that I don't think-- I'm not sure that this-- that the Legislature could decide this in case-- in-- in-- in any speed to decide that litigation. I don't know how long the litigation will go on, and I'm, like I said, just generally familiar with it. But I think this-- I concur with you that different branches have different-- different roles. And I think the role of the legislative branch is-- is to, were it possible, make sure it doesn't happen again. I'd try to anticipate what problems are

out there, what language is loosely drafted, and try to get ahead of it.

La GRONE: So I-- I recognize that we have the authority to do something like this. Obviously this will raise legal questions of separation of powers, but anytime we have legislation, there's a case ongoing, we always have to ask the question of, you know, does this raise policy questions of separation of powers. I just wondered if you could speak to that.

JOHN LINDSAY: No, I do not believe it raises separation of powers issues at all. The Legislature's free to change any law it wants, whenever it wants.

La GRONE: Correct. I'm not disagreeing that we have the legal ability to do so. My question is the policy and of that.

JOHN LINDSAY: The policy of whether to intervene in litigation?

La GRONE: Correct. Like when there is ongoing litigation, obviously there's policy implications of us respecting another branch's territory even if we have the ability to do something. So I just wonder if you could speak to the policy implications of that.

JOHN LINDSAY: I think the Legislature gets involved in-- in issues all the time where there is litigation pending. Sometimes the Legislature thinks it's important enough to intervene. Sometimes it doesn't. And that I think is the, again, it's-- it's the Legislature's determination, and-- and legislators are free to-- to make those decisions. Now how the court would interpret that, and whether that would be interpreted as impacting the litigation is something, I think, that's in the purview of the judicial branch and is within their inherent authority.

La GRONE: Thank you.

WILLIAMS: Any additional questions? I have one, and-- and maybe you can shed some light on this and-- and maybe not. But again, as Senator La Grone talked about, there have been ongoing litigation. You mentioned several times in your testimony, the legal fees that have been involved with this. Do you have any idea who has spent those legal fees? Where did those funds come from that were used to spend legal fees? And were attempts to make-- were attempts honestly made to resolve issues before litigation was filed?

JOHN LINDSAY: I believe--whether there were honest attempts to resolve it, I think is probably perspective that each side would

have their-- as with any litigation, would have their own perspectives. I believe there have been attempts at various times to resolve the litigation, and sometimes, it just can't be resolved. Sometimes you make some movement. I think it's an ongoing process. As far as the legal fees, our legal fees that LARM has incurred would have come from-- would have come from LARM. As far as others, I-- and by the way, I mean, we're subject to the Open Records Act. I think a request would-- would get those fees. On the other side, I don't-- I don't have any idea where those dollars would come from. I don't believe that they're subject to the Open Records Act.

WILLIAMS: Thank you. Any additional questions? Senator McCollister. Oh, excuse me, Senator La Grone.

La GRONE: [INAUDIBLE] Thank you, Chairman Williams. Just real quickly again, shifting to the text of the bill as I'm looking at it so these-- am I correct that these entities are created through like an interlocal agreement?

JOHN LINDSAY: Yeah, the-- the Intergovernmental Risk Management Act to which this-- this amends, gives the authority to create this.

La GRONE: Right and it-- so my question would be, when we're looking at the election procedures-- I'm assuming under that act, that the local governments who are entering into this agreement have the ability currently to spell out the procedures in that agreement. Would that be correct?

JOHN LINDSAY: I believe so.

La GRONE: So my question would be why would we want to do a one-size-all-fits approach if when our local governments are-- usually can work out whatever works best-- best for that particular setup?

JOHN LINDSAY: I know there's various ways to-- to-- to select boards of various pools. I think there-- there can probably be principles that would go into that such as that the ultimate decision should be made by the governing boards of the various members as opposed to having proxies given to-- to-- perhaps to other members who-- where you're really not getting the elected officials' input. And I think that when those fail for whatever reason, there should be some sort of a fallback. And when it comes to elections-- that's why it's suggested in the bill, when it comes to elections the-- at least at the state level, the expert in elections is the Secretary of State's office personnel that are well-equipped to ensure fair elections and making sure

that the public interest is served. So that's-- I-- it's-- it's not necessarily a one size fits all, but the procedures should protect certain principles that are in the public interest.

La GRONE: We actually touched on the one remaining question I had and that's the choice of the Secretary of State to oversee it. So I notice that it notes that it's not an Election Act election. So I'm just curious as to the choice of the Secretary of State's office because I don't-- having worked frequently in election law, I'm not sure they would have the expertise so I'm just curious as to why that was the choice and what were the policy reasons behind that?

JOHN LINDSAY: I guess we may not agree on the expertise level. I think the Secretary of State is well-equipped. I mean the fundamental question is those entitled to vote, are their votes cast and counted in a manner that people have faith in the process? And so I think the Secretary of State's office historically has done a great job of-- of doing that. I don't know that there's others-- but the Secretary of State, by the way, also deals with-- with corporation activity. I believe when these are formed, it's filed with the Secretary of State so it's not a new area for the Secretary of State. And I-- I believe that-- that it is appropriate department. I don't see--

anticipate that there would be a significant amount of work. I think it's, like I say, should be a fallback because we've made clear we're not tied to the language here. But it can be a fallback to avoid spending money on lawyers to go to district court and then perhaps Court of Appeals and perhaps the Supreme Court on trying to resolve a dispute that could have been resolved in a-- in a better fashion.

La GRONE: And I completely agree the Secretary of State has done a great job of carrying our elections. I-- I'd-- I'd agree it's more like corporate election. That's why I was curious as the choice that it's not an Election Act election. Thank you, Mr. Chairman.

WILLIAMS: Seeing no other questions, thank you for your testimony. Would invite the next proponent.

MICHAEL WERNER: Thank you.

WILLIAMS: Welcome.

MICHAEL WERNER: Welcome, Sir. I have a brief statement, Senator Williams and members of the Banking, Commerce and Insurance Committee. For the record, my name is Michael Werner, that's spelled M-i-c-h-a-e-l W-e-r-n-e-r, and I am the mayor of the city of Waverly. And I'm here to testify in support of LB573.

LB573 seeks to clarify sections of the Intergovernmental Risk Management Act dealing with the elections of governing boards. As you all know, it is a board that has a legal responsibility for operating a risk management pool. Given that these pools are comprised of public entities, it is imperative that the elected officials of the public bodies which are members of the pools be the decision makers. However, I see nothing in the act that requires that this occur. I also see nothing in the act which prohibits allowing a proxy to make independent judgments on behalf of the elected officials. I find it hard to believe that voters, when electing their city councils and mayors, are OK with someone other than the winner of the election to make decisions regarding how their tax dollars spent on insurance premiums should be managed. That kind of power must always remain with the voters through the people they elect. It should never be delegated to people outside of their ability to object at the ballot box in the next election. I don't believe that the people who elected me would be happy knowing that their dollars are being spent on premiums determined under a loosely drafted interlocal agreement. I believe it makes a whole lot of sense to have the election procedures reviewed by the Secretary of State to make sure that the public interest is always at the forefront. It also makes sense to have this process that is less

expensive than we are currently being subjected to. Since the Secretary of State is trusted to manage elections and has a staff that are experts in fair elections, it seems that he can be trusted to make sure that elections of governing boards of interlocal, intergovernmental risk pools are fair. It would also ask you look in the issue so that we can avoid expensive and wasteful procedures like we are doing now. I'd be happy to answer any questions you may have.

WILLIAMS: Thank you, Mr. Werner. Questions for the witness? Thank you for your service being mayor of Waverly. Is Waverly a participant-- participant in the pool?

MICHAEL WERNER: Yes, Sir, for about five years now, I believe.

WILLIAMS: Do you serve on the Board of LARM?

MICHAEL WERNER: I-- I did for about six months, and I had to step down as there was a conflict. I worked for Travelers Insurance, and as an employer they view, even though it's a nonpaying job and I work in IT not determining, you know, insurance things, they still view it as a conflict because they view it-- LARM and Travelers competes in the same commercial space. So I had to step down so.

WILLIAMS: Thank you. Any additional questions? Seeing none, thank you for your testimony. Invite the next--

MICHAEL WERNER: Thank you.

WILLIAMS: --proponent. Welcome.

DAVE HUNTER: Thank you. Senator Williams, members of the Banking Committee and Insurance Committee, my name is Dave Hunter, D-a-v-e H-u-n-t-e-r. I am the general manager of the Auburn Board of Public Works. I'm here-- here to testify in support of LB573. It's an elementary concept that public dollars should be used for only public purposes. I would be shocked if anyone in this room would disagree with that premise. The concept appears throughout states, and it's ingrained in about every elected official. However, in an era of risk management pools, that may-- may not be the case. I would like to see prohibition on risk management pools using their premiums for sponsorships or other devices that pay pools members' funds for anything other than market price goods or services. LB573 does that. In a case of a risk pool of which my utility is a member, I believe funds have been used for payments or for sponsorships that are the pool-- excuse me, payment for sponsorships that the pool has received nothing in return. The premiums that my utility pays for insurance to protect-- insurance protection should be used

solely for that purpose. They should be used to maintain reserves, adjust and pay claims of members, and to administer the pool in the most efficient manner possible. The premium dollars are being spent; I should be able to get a report to my board exactly what goods or services the pool received in exchange. Along with other board members of the League of Risk of Management-- League Association of Risk Management, LARM, I was responsible to make certain that LARM funds were properly used. I voted to stop payment of those-- of-- to the League of Nebraska Municipalities and disconnect the league as a landlord because of its action for driving up LARM's costs and preventing LARM from using its money to provide risk protection to members at the lowest responsible cost. It is important to me that new board members be elected lawfully and not through manipulations of persons who want LARM's funds to be used for that reason. LARM is a public entity. It is subject to the open meetings and open records laws. That transparency should follow the dollars spent by the pool. Thank you for your time.

WILLIAMS: Any questions? Seeing none, thank you for your testimony.

DAVE HUNTER: Thank you.

WILLIAMS: Invite the next proponent. Welcome.

TRACY JURANEK: Thank you. Good afternoon, Senator Williams and members of the Banking, Commerce and Insurance Committee. My name is Tracy Juranek, T-r-a-c-y J-u-r-a-n-e-k. I'm the customer service specialist for League Association of Risk Management, LARM. I'm here to testify in support of LB573. I have contact with members of LARM on a daily basis and feel I have a good overall feel for how members view this issue. LARM recently conducted a survey of all LARM members. The question was asked of each LARM member if LARM should pay 2 percent of the LARM revenue to the League of Nebraska Municipalities. None of the survey's returns supported continuing the 2 percent payment to the league for no services. This survey confirmed to us that it was, not only board and staff that felt that public funds should not be paid to the league but our members supported that view also. The survey also showed, in overall, that our members were very pleased with the services that are being provided by LARM. Our members are mostly interested in obtaining good insurance coverage and good claim services for the lowest possible rates. Thank you.

WILLIAMS: Any questions? Seeing none, thank you for your testimony. Would invite the next proponent. Going once. Seeing none coming forward, we will switch to the opponents. We would invite the first opponent. Welcome, Mr. Edson.

DEAN EDSON: Thank you. Thank you. Senator Williams and members of the Banking and Insurance Committee, my name is Dean Edson, spelled D-e-a-n E-d-s-o-n. I'm the executive director of the Nebraska Association of Resources Districts, or NARD, presenting testimony today in opposition of LB573 on behalf of the association. For background, our association has operated a licensed risk pool for health insurance since 2007. We've worked with the Department of Insurance to set up the pool and fully cooperate with them on any additional information they require on mandatory quarterly reports. We post bill mainly because of the proposed changes in the elections. We see no need to change the procedure and file with the Secretary of State. In addition, we oppose placing term limits on the directors and mandating that the terms be staggered. These need-- decisions need to remain with a locally elected NRD board to determine who represents them. The entity-- intergovernmental risk pool includes all 23 natural resource districts, provides health and dental insurance to the NRD employees, their spouses, and dependents. The elected directors of the districts are not eligible to participate in the plan and are not compensated for their service or reimbursed for expenses from the risk pool. Also there are no paid employees of the risk pool. However, I serve as a noncompensated executive director and the existing

NARD office manager also serves the same position to the risk pool and is also noncompensated. The risk pool is governed by a 23-member board with a board member and alternate from each district elected by that locally elected board to serve on their behalf. We have five meetings per year. Under our operating procedures, the board member can be changed at the discretion of the local board at any time. Back in January of 2019, we had 5 of the 23 directors replaced by action by the local board. Twelve of the 23 directors we have now have been on the board since 2007. We believe also placing the additional reporting requirements of statutes are also unnecessary. The Department of Insurance can request additional information at any time, and we've never had a problem complying with those requests. We've changed our accounting basis for our quarterly reports at their request even though it's not required by statute. We also provided other information at their request. We're also on an audit cycle with the department. We agreed to do this from the very beginning. We agreed to allow the department to audit us after the first two years of operation and every four years thereafter. The department provides those internal auditors, and the risk-- risk pool pays for those audits. They've never had a violation or substantive audit finding through this process. The risk pools saved the local districts and taxpayers significantly

over the last 12 years. Prior to the creation of this risk pool, our program was operated by a private insurance agent, and our annual premium increases were in the double digits. Since the creation of the pool in 2007, our average increase in premiums has been 4.1 percent while also providing stable consistent health and dental coverage to the NARD employees, spouses, and their dependents. Thus we see no need to make changes to the risk pool statutes and urge you to indefinitely postpone LB573. And I'd be happy to answer any questions you may have.

WILLIAMS: Thank you, Mr. Edson. Questions for Mr. Edson? So you operate a risk pool, and LB573 would take over and govern your risk pool also?

DEAN EDSON: Yes.

WILLIAMS: And currently your testimony is that your elections work fine. Everything's moving forward. You're saving your members money.

DEAN EDSON: That's exactly right.

WILLIAMS: Thank you, Mr. Edson.

DEAN EDSON: Thank you.

WILLIAMS: Would invite the next opponent. Welcome.

DOUG HANSON: Good afternoon. Thank you. Senator Williams, and members-- are we ready?

WILLIAMS: Yes.

DOUG HANSON: Senator Williams and members of the Banking Committee, my name is Doug Hanson, that's D-o-u-g H-a-n-s-o-n. I am the mayor of Hickman and chair of the board of directors of the League Association of Risk Management, referred to as LARM. In 1998, Hickman approved LARM's interlocal agreement to participate in the risk management pool, and our city has been-- been a member ever since. I am testifying today in strong opposition to LB573 on behalf of the LARM board of directors that were duly elected on March 21, 2018 in a special meeting of the LARM members and again on September 19, 2018 at a meet-- meter-- meem-- members' meeting, excuse me. Both elections were conducted pursuant to the requirements of LARM's interlocal agreement, bylaws, the Open Meetings Act, and the Intergovernmental Risk Management Act. Fifty-seven LARM members passed resolutions in March of 2018 to call for a special meeting of LARM members to properly elect 15 individuals to the LARM board of directors. Officials from 73 LARM members attended this meeting. This-- this election was necessary because there was and continues to be individuals serving on an unlawful,

purported LARM board who were informed long ago that they were not properly elected at-- at a members' meeting as required by LAR-- LARM's interlocal agreement. The remaining five individuals were put on the purported LARM board with only a vote by other board members, and they have exceeded their respective terms of office. On March 1, 2019 just a couple of weeks ago, there was a hearing on a summary judgment motion filed by Ansley, Hickman, North Platte, and Lynn Rex as the administrator of LARM to remove these five individuals from office on a quo warranto action before Lancaster County District Court. At the hearing, Mr. Domina, who represents the individuals on the purported LARM board, told the judge that not one of his clients wants to be on the board. Fin-- frankly, I cannot understand why they do not resign. Yet these five individuals continue voting on agenda items presented to them by LARM's executive director. On February 26, 2019, the duly elected board passed a motion to again request that the five remaining members of the purported LARM board resign since: one, none were elected at a members' meeting as required; and two, their respective terms of office have expired. The duly elected LARM board previously directed me as chair to respectfully request their resignations by April 24, 2018. While members of the duly elected LARM board continue doing everything possible

to encourage members to join and or stay in LARM, actions taken by the purported LARM continue to have an opposite effect. On February 26, 2019, the duly elected board also passed a motion to oppose LB573 which would enact, in part, a voting protocol which the purported LARM board is precluded from implementing due to the restraining order. The proponents of LB573 want the Legislature to enact a voting protocol which violates LARM's interlocal agreements. LB573 would amend state statutes to require LARM to change its interlocal agreement and get approval from the governing bodies of-- of our 164 members, to include a requirement that the Secretary of State's office be in the election of candidates through a board of directors of a risk management pool. Now the Secretary of State's office has a critically important role to play in elections but has never been involved in election involving a risk management pool and was not ended-- intended to be as such. This was clear in the Election Act from the definitions of an election in current state law. LB573 would also change the interlocal agreements of other risk management pools for school districts, NRDs, counties, and community colleges. For some history, I was elected chair of the duly elected LARM board on April 12, 2018. However, I previously served on the LARM board for many years. I was elected chair of LARM for the first time in February of 20--

2006 and served for 8 years. Without a doubt, LARM is the most significant program the league had ever developed for a municipality. The league created LARM in response to the insurance crisis of 1980's when mun-- municipalities were facing skyrocketing rates for significant-- significantly less coverage. And some mun-- mun-- municipalities were not able to get insurance at all. LARM began offering an endorsed program, and with-- in 1995, with 13 participating, LARM received approval from the Department of Insurance to create-- to operate an insurance pool. So we are-- they offer property and liability but now also offer workers' compensation. The efforts of the duly elected former-- duly elected board are to restore LARM to a membership-driven organization. And an overwhelming number of our members do not want LARM separated from the league to become just another insurance company. LARM's executive director and the purported LARM board have openly-- been openly proceeding for this separation in violation of LARM's interlocal agreement. This underscores the importance of why we respectfully request-- ask this committee to indefinitely postpone LB573. Thank you, and I would try to answer any questions you may have.

WILLIAMS: Thank you, Mr. Hanson. Questions? Senator La Grone.

La GRONE: Thank you, Chairman Williams. Just real quick, I might not understand you correctly. The election procedures are-- are what are an issue in the liti-- ongoing litigation.

DOUG HANSON: Correct.

La GRONE: OK. Thank you.

DOUG HANSON: That's the primary issue, primary issue, correct.

La GRONE: Thanks. Thank you, Mr. Chairman.

WILLIAMS: Mr. Hanson, if I--

DOUG HANSON: Yes, Sir.

WILLIAMS: --if I understood your testimony right, you have served on the LARM board for a lengthy period of time.

DOUG HANSON: I-- yeah, I was off because of term limits in 2014.

WILLIAMS: But you were on for--

DOUG HANSON: I was on for, yes--

WILLIAMS: --a period before that.

DOUG HANSON: --yes, 2006.

WILLIAMS: And the question you talked about was voting protocol. During your period on the board, did the voting protocol seem to work well for LARM?

DOUG HANSON: Yes. And we had a members' meeting. The elections were conducted at the members' meeting. There were several members' meetings, but that's where-- and members then, elected the board that were going to go on to that so.

WILLIAMS: OK. Thank you. Any additional questions? Seeing none, thank you for your testimony.

DOUG HANSON: Thank you. Thank you.

WILLIAMS: Would invite the next opponent. Welcome, Ms. Doane.

LANETTE DOANE: Thank you. Senator Williams and members of the Banking, Commerce and Insurance Committee, my name is Lanette Doane, L-a-n-e-t-t-e D-o-a-n-e. I'm the village clerk treasurer for Ansley, and I'm here representing my community and as a member of the LARM board properly elected as required by our interlocal agreement. LB573 would be detrimental to LARM and other risk management pools in Nebraska. It would amend Section 44-4306 which governs risk management pools in a very straightforward manner. [Section] 44-4306 is sufficiently specific to safeguard pool members and their assets and ensures

accountability for fiduciary duties by the governing boards of risk management pools. And at the same time, it's general enough to allow flexibility for each pool to self-govern through its respective interlocal agreement and bylaws. The Secretary of State's office has not been involved in the past nor is there any reason to involve their office in full elections. Section 44-4306 governs risk management pools and works very well. LB573 is unnecessary legislation that seems to specifically target the LARM pool, and it should be indefinitely postponed. And I appreciate the opportunity to provide-- to provide some background information. Ansley became a member of LARM in 2005. We received, studied, and signed our interlocal agreement which we understood was the foundation document or contract, if you will, as a LARM member. I had participated via phone at various times in the past in LARM meetings when there were issues of concern to my community, and we felt they needed to be addressed. Both times when I presented the matters, I was treated professionally and respectfully, and changes were put in place to address our concerns and to better serve the membership. However in the fall of 2017, I became aware that mem-- individuals serving on the LARM board were: one, not elected by the membership at a members' meeting as mandated in our interlocal agreement; and two, were violating some terms and

planning to violate other terms of our agreement. In fact, a majority of the purported board was voting to take actions in direct conflict with provisions of our agreement. And when their actions were questioned, they failed repeatedly to provide answers or explanations. Based on the fact that not one of the current purported members of the LARM board of directors was properly elected by participating members at a members' meeting as required by our interlocal agreement, governing bodies of 57 LARM members, including Ansley, passed resolutions calling for a special meeting of the LARM members on March 21, 2018 to elect a duly constituted LARM board of directors. Representatives from LARM-member entities, many of whom had served on the LARM board previously, developed a slate of candidates. So on March 21, 2018, 12 sites, geographically located across Nebraska, served as host sites for members to participate in a special meeting to conduct a member election of the LARM board of directors by videoconference pursuant to the Open Meetings Act. Seventy-three LARM members participated in that special meeting exercising their right to vote for board of directors for LARM from the slate, and any other nominations from the floor. Of those 73 participating members, 61 voted in favor of the slate of candidates, 1 opposed, and 11 abstained. So 15 individuals were elected to the LARM board of directors in March of 2018: 5 for a

1-year term; 5 for a 2-year term; and, 5 for a 3-year term. I was elected for a 3-year term. Our interlocal agreement provides that terms end on December 31 of the year that a director is elected. So on September 19, 2018, a second election was held for those 5 position of the directors whose terms would expire on December 31. Those 5 directors were re-elected for a 3-year term by a vote of 48 in favor, none opposed, and 6 abstaining of the 54 members that participated. The purported LARM board continues to operate outside the requirements of both our interlocal agreement and the bylaws, and they refuse to step down. There have been several violations of the Open Meeting Act. They appoint members to their purported board with no election or opportunity by the membership to have a voice in representation. They are currently down to five members which is well below the number required in our interlocal agreement. They failed to provide answers to legitimate questions about budgeting and expenditures. Members asking questions are often treated disrespectfully. Their attempts to change the bylaws of LARM was disallowed by the Department of Insurance because the changes were in conflict with our interlocal agreement. Lancaster County District Court has an injunction in place to prohibit them from implementing a new voting protocol or holding an election. Public records requested are not produced. And

sadly, the list goes on. They are not operating in accordance with the transparency required of a-- of a public body. And their attempts to bypass the terms of our interlocal agreement and our bylaws have failed in the courts and the Department of Insurance. So LB573 is simply their attempt to come in the back door and try to legislatively change LARM's interlocal agreement. On behalf of Ansley and other LARM members, I respectfully request that LB573 be indefinitely postponed. I thank you for the opportunity to testify, and I would be happy to provide any answers.

WILLIAMS: Thank you, Ms. Doane. Questions? Seeing none, thank you for your testimony.

LANETTE DOANE: I will have some handouts at the end of the hearing. Thank you

WILLIAMS: Thank you. Invite the next opponent.

JO LEYLAND: Good afternoon.

WILLIAMS: Welcome.

JO LEYLAND: Thank you. Chairman Williams and members of the committee, my name is Jo Leyland, spelled J-o L-e y-l-a-n-d. And I serve as the administrator, clerk, treasurer for the city of

Imperial. I'm testifying in strong opposition to LB573. Like others here testifying today, I'm one of the duly elected members of the board for the League Association of Risk Management. The remaining five people who claim to be the LARM board will not cede control of the organization, and there is a court battle ongoing. I would like to share with you parts of a letter that I sent to the mayors and chairpersons of each member of the League Association of Risk Management on February 20, 2019. In the two years I've been attending LARM meetings, the five people who remain on the purported board have literally not asked more than a combined total of one to two questions during meetings. There seems to be no challenge or questions about agenda items, and there has never been a no vote by these five people against a motion put before the board by the director. At the beginning of their meetings, they allot a total of 15 minutes for comments from members or others in the audience. We have the opportunity to comment or ask questions, but they refuse to answer direct questions and seemingly ignore all comments. There is rarely any discussion of the items, simply a motion is stated on the agenda and a vote where all present vote yes. The purported board has shrunk from 15 as suggested in the interlocal agreement to now 5 members, the former chairman from Pilger having just been released from her city position. The

purported board has voted to form a nonprofit organization called LARM, Inc. And the name is registered with the Secretary of State. LARM, Inc. would not be a public entity, and information would not be available to members. Even now, LARM refuses to respond to member questions and lawful public records requests. The director of LARM is spending many thousands of dollars of membership money to fight the issues of the governing board in court. He has hired two additional law firms to represent LARM and the five purported members of their board all at member expense. I question why the director is fighting so hard to-- and spending so much member's money to keep the five remain-- remaining members in their seats. They should resign immediately since they admittedly have no lawful right to govern. And if that weren't enough, the LARM director has now filed an action in court against the 15 people who were properly elected to the board. Member funds are being used against 15 of its own members under no board direction. At a recent meeting of the purported board, the individuals voted to approve an agreement with O'Hara Lindsay for lobbying services to try and pass LB573. The purported LARM board voted to pay \$48,000 for lobbying efforts for a bill that is opposed by the League of Municipalities, the organization that originally formed LARM. What should be a concern to all members is-- is what-- is that

without any board action, the director took it upon himself to pay a lobbyist to develop the bill and search out a senator to support it. This bill appears to be an attempt to change state statute to accomplish what the director has been trying to do in court or through the Nebraska Department of Insurance. Thousands of dollars of league and LARM funds are being used to respectively oppose and support LB573 that will change the interlocal agreements with each of its LARM members. My vision of the risk pool was that in some years there will be high costs for individual members, and other members will absorb those costs. As an example, the village of Pilger was hit by twin tornadoes and required enormous funding to be rebuilt. I do not recall any hint of increased premiums for Pilger or threats of their being dropped from membership in LARM. However, after North Platte experienced a devastating workers' compensation claim, action was taken that is obviously intended to force them out of the pool. At the time of these incidents, one of the purported board members was a representative from Pilger. The five members of the purported board have violated the interlocal agreement on numerous occasions. They submitted new bylaws for approval by the Nebraska Department of Insurance which declined their request because changes violated the interlocal agreement. The director of LARM tried to implement new voting protocols

even after an injunction by the courts. LB573 is intended to circumvent the courts and the Department of Insurance directives. I want to emphasize that LARM is well situated financially to support claims, and our risk management pool has been an excellent solution for governmental entities to save premium costs and, in some cases, the only option for insurance coverage. Our problem is not the interlocal agreement or the current statutory language governing risk pools. I hope you will indefinitely postpone LB573. I have copies of my original letter here for you that I'll-- that I'll give at the end of the hearing. I don't have it right now. But I'm happy to answer any questions that you might have for me.

WILLIAMS: Thank you, Ms. Leyland. Questions? For communities like Imperial and other communities, a strong, healthy pool arrangement is-- is really important, isn't it,--

JO LEYLAND: Absolutely. Yes.

WILLIAMS: --because of the experiences coming out of the 80's, when insurance was canceled in many cases?

JO LEYLAND: Yes, very much so.

WILLIAMS: And maybe it's been in here. Do you know how many communities currently use this pool?

JO LEYLAND: I believe there's 164, I think.

WILLIAMS: Okay, thank you. Any additional questions? Senator McCollister.

McCOLLISTER: Yeah, thank you, Chairman Williams. One hundred and sixty-four out of how many smaller communities?

JO LEYLAND: Smaller communities?

McCOLLISTER: Yeah, how many out of what universe?

JO LEYLAND: I am not certain of the smaller communities. LARM covers small and large communities. I think North Platte is our largest member right this-- right at this time. There have been larger ones over the course of LARM's history. You know, there are 500 and some communities in total in Nebraska. But I can't tell you the-- the breakdown by size.

McCOLLISTER: The flooding is outside your purview?

JO LEYLAND: Yes.

McCOLLISTER: I understand.

JO LEYLAND: Yes. Thank you.

McCOLLISTER: Thanks for coming.

JO LEYLAND: Yeah, my pleasure. Thank you.

WILLIAMS: Thank you, Ms. Leyland. Our next opponent? Welcome.

SANDRA SCHENDT: Thank you. Senator Williams and members of the Commerce-- Banking, Commerce and Insurance Committee, my name is Sandra Schendt, S-a-n-d-r-a S-c-h-e-n-d-t. I'm here today to testify in opposition of which would amend 44-4306 relating to interlocal agreements governing risk management pools in Nebraska. LB573 was originally introduced by Senator Tom Brewer who withdrew his name from the bill. LB573 is now being sponsored by Senator Matt Hansen. Oh, I also forgot, I'm the city clerk treasurer for the city of Nelson. There are multiple risk management pools being operated in the state of Nebraska that are governed by 44-4306. In my opinion, LB573 was written to change the rules for only one of those risk pools, and it does not take into consideration what would happen to the other risk pools in the state of Nebraska. I would like to provide you some background information about the League Association of Risk Management, commonly referred to as LARM, and explain why your committee should indefinitely postpone LB573 as soon as possible. LARM was established in 1989 by the league helping communities which could not get insurance or could not get insurance at a reasonable price. Initially, LARM offered members

opportunities-- or municipalities an endorsed insurance program with risk management services. In 1995, LARM received a certificate of insurance from the state to operate it-- the property and liability group self-insurance pool. Nelson was one of those communities that could not obtain insurance because insurance companies did not want to sell insurance to cities and villages. Also, some insurance companies made premiums so high the cities and villages could not afford the insurance. The city of Nelson has been a member since June 1, 1999. The city of Nelson is one of the original 60 members of LARM. Out of frustration in 2013, I made a comment to a LARM-- LARM staff member that maybe we needed to find another insurance company if there wasn't anybody at LARM could-- who could help us with some of our important insur-- insurance-related decisions at the time. That is when the executive director of LARM contacted me and informed me that if we switched insurance companies before the resolution we passed by the city expired, he would sue the city of Nelson. He told me the city had to honor the resolution which guaranteed we would stay with LARM for three years. I want to assure this committee that the city of Nelson always honors its commitments, contractual or otherwise. I should point out that our comment to the LARM staff member in 2013 did have the intended-- intended result since a LARM staff then assisted the

mayor and council in making the proper decisions and choices for our policy. Where am I going with this story? If the executive director of LARM expects and demands that LARM members follow bylaws as well as resolution and interlocal agreement our city council approved to join LARM, then he should certainly understand why LARM members and LARM board of directors, duly elected at members' meeting March 21, 2018, passed a motion unanimously expecting and demanding that he and the remaining five members of the purported LARM board who are unlawfully holding office honor and comply with LARM's interlocal agreement, bylaws, and contractual commitments and other obligations with all LARM members. Unfortunately, LARM's executive director and purported LARM board had chosen not to do so. This is evidenced by their ongoing efforts to ignore numerous positions of LARM's interlocal agreement, including trying to force the city of North Platte out of LARM by giving LARM-- North Platte the choice of either finding insurance elsewhere or agree to pay an outrageous 9,900 percent increase in its deductible for workman's compensation coverage. I would like to emphasize that the passage of LB573 to amend the statute governing our interlocal agreement would do nothing to address the challenges LARM members are currently facing. Those issues are now in litigation and will be resolved in the Lancaster

County District Court. There is no problem with LARM's interlocal agreement. With our bylaws and interlocal agreement, we already have tools in place to properly elect LARM board of directors. Section 8.1 of our interlocal agreement outlines the voting procedures we are to follow in electing a board of directors. I am one of the 15 members of LARM properly elected on March 21, 2018 and again on September 19, 2018. Not one member of the purported LARM board was ever elected as a member at a members' meeting as required by our interlocal agreement. Apparently they contend that that doesn't matter and they deserve to be on the board despite the fact that they have known for a long time that they are not properly elected or appointed to the board. I attended the hearing at the Lancaster County District Court where Mr. Domina, the attorney, and the members stated that the purported board-- that not one of his members wanted to be on the board. Perhaps this is why they refused to answer any questions by LARM board members during the meetings. In closing, I respectfully request you indefinitely propose-- postpone LB573 and not try to change the interlocal agreements governing LARM and other risk pools operating in the state. Please allow LARM's issues to be resolved in court. And thank you for your consideration. I'll try to answer any questions.

WILLIAMS: Thank you, Ms. Schendt. Questions? Seeing none, thank you for your testimony. Invite the next opponent. Good afternoon.

DOUGLAS STACK: Good afternoon. Mr. Chairman, Senator Williams, members of the committee, my name's Douglas Stack, D-o-u-g-l-a-s S-t-a-c-k. It's my understanding that LB573 is before you as a result of the effort of persons associated with what has become known as the purported, excuse me, board of directors of the risk management pool by the name of the Nebraska League of Risk Management. They are subject to a lawsuit. They are subject to lawsuits challenging their status as board members; you're aware of this. From the perspective of the city of North Platte in opposing this legislation, we strongly believe that LARM's intentions in bringing before you LB573 are not honorable. We see this legislation as unnecessary, and we don't understand the purpose behind-- we don't understand the purpose because LARM is comprised of over 160 members already bound by the terms of a comprehensive interlocal agreement. And I wonder if the LARM people offering this bill believe that they can alter those 160 interlocal agreements. You may be aware that-- or you are aware that LARM and its purported board of directors are parties in multiple lawsuits filed in the Lancaster County District Courts in an effort to determine just who properly sits as a valid

board of directors of LARM. The city of North Platte and its representatives are parties in each of those lawsuits. I've been asked to share with you what LARM is attempting to do to the city of North Platte. And we're fearful that this legislation is intended to aid the purported board in doing that to the city of North Platte. The city of North Platte's been a member of LARM since 2004. The city is presently the largest sitting member of LARM paying its largest premium, \$1.5 million for the present fiscal year. In 2017, an employee of the city did suffer a significant head injury as a result of his falling from scaffolding. The purported board, LARM board, saw this claim as an opportunity to oust the city of North Platte from its insurance coverage and its membership in LARM. They first passed a motion increasing the city's workers' compensation deductible from \$1,000 per incident to \$100,000 per incident, an unconscionable increase of 9,990 percent, effectively eliminating the city's work cop-- work comp coverage making the city self-insured, its workers' compensation coverage, despite the fact that the city would still pay a premium of almost \$600,000 for that coverage, later increased by an additional \$218,000. When the Department of Insurance refused to agree with LARM that they could-- refused to agree with LARM that they could increase the city's deductible to \$100,000 per incident,

LARM changed gears and they gave the city an option to either voluntarily increase its deductible to \$100,000 per incident or to terminate its coverage with LARM and cease to become a member of LARM costing the city its investment in the reserves of LARM that they had built up over the many years. With the assistance of the Department of Insurance, the city, in order to maintain its work comp coverage with ARM-- LARM, paid LARM an additional \$218,000 in work comp premium, that for the right to continuous coverage with a \$1,000 deductible rather than the \$100,000 deductible. However as of this date, the purported board continues to tell us that we must choose between having a \$100,000 deductible or to be terminated as a member of LARM. I can fairly well assure you that termination of North Platte's coverage will be on the next purported LARM board agenda. The purported LARM board is attempting to force the city of North Platte out of the organization. That's clear. We're concerned that LB573 may be an attempt to further strengthen its grip over other-- over our other members-driven risk management pool. I'd like to suggest that if the proponents of this legislation were sincere in their efforts to improve legislation relating to risk management pools, the proponents would introduce legislation that would strengthen the authority of the Nebraska Department of Insurance to regulate risk management pools. It's my opinion

that this legislation is before you because the proponents of LB573 refused to accept regulation by the Nebraska Department of Insurance. The purported board of directors of LARM have thumbed their nose at the Department of Insurance in LARM's efforts to alienate the city of North Platte. They intend to do-- do to the city of North Platte what they want to do despite the fact that the Department of Insurance has told them no. Thank you for your consideration. Happy to try to answer any questions that I can.

WILLIAMS: Thank you, Mr. Stack. Are there questions? Seeing none, thank you for your testimony.

DOUGLAS STACK: Thank you very much.

WILLIAMS: Invite any additional opponents. Welcome, Director Range.

BRUCE RANGE: Good afternoon. Chairman Williams and members of the Banking, Commerce and Insurance Committee, my name is Bruce Range, spelled B-r-u-c-e R-a-m-g-e, and I'm the director of insurance for the state of Nebraska. I'm here today to testify in opposition of LB573. LB573 amends the Intergovernmental Risk Management Act. As you know, the Intergovernmental Risk Management Act allows for the establishment of risk management pools which are intended to provide a mechanism for state and

local governments to effectively use taxpayer money to spread risk and minimize the fluctuation in insurance needs. These pools are able to provide both property and liability coverage as well as life and health coverages. I come before you today to oppose any legislation amending the Intergovernmental Risk Management Act that does not provide the director of insurance the necessary authority and tools to properly regulate these entities. Under current law the Department of Insurance is tasked with licensing these pools, approving certain specified changes to governance and coverage documents, and general financial oversight. The current structure works well as long as problems do not arise. Unfortunately as the Department of Insurance has recently experienced firsthand, when problems with the pool do arise, the department does not have the necessary authority to correct them. Beginning in 2017, an internal dispute arose regarding appointment and election of the members of the board and directors of a pool licensed in Nebraska. This dispute resulted in litigation and has yet to be resolved. While litigation is pending, the department has done its best to regulate this pool in the ordinary-- ordinary course of business. Unfortunately infighting also quickly brought about actions by the pool against individual members were-- that were not in the ordinary course of business. The department has

determined that if the pool were a traditional insurer, the pool's activities would constitute unfair insurance trade practices toward its members. Under current law the pools are not subject to the majority of the insurance code, including the Unfair Insurance Trade Practices Act. The department has issued directives to this pool which have been ignored. The department has no punitive authority over the pool. There is no existing authority to fine or suspend the pool. This makes sense because such actions would ultimately harm Nebraska municipalities and their citizens. The only corrective action available to the department under current law is to nonrenew the pool's certificate of authority. This is problematic because there is no statutory mechanism to wind down the pool, and it would force Nebraska municipalities to scramble for alternative insurance coverage. Any amendments to the Intergovernmental Risk Management Act should do the following in order to allow the Department of Insurance to effectively regulate a risk management pool. One, it should subject the pool to the Unfair Insurance Trade Practices Act. This will protect individual members or municipalities from exploitation or mistreatment. The ability to fine the pool is not appropriate, but the pools should be required to comply with the act. Two, the director of insurance should be granted the authority to issue corrective

orders to the pool in order to bring a pool or its management into compliance with Nebraska law. If such a corrective order is violated, the director should have the authority to remove the members of the board of directors or executive management of a pool. Three, the pools' directors should be required to be elected pursuant to a vote of the pools' members and should be able to be removed for cause. Four, if the Department of Insurance finds just cause to renew a pool's certificate of authority, specific provisions should be in the law regarding how the pool is to be wound down, specifically subjecting the pool to the Insurers Supervision, Rehabilitation, and Liquidation Act. This step would likely never be necessary if the prior three changes are made, as a director will have the necessary authority to enforce the Intergovernmental Risk Management Act. Thank you for your time today and for the opportunity to present these issues to the committee. Again, the recent dispute has identified inadequacies in the law when a pool's members, its board, and administrator do not work together cooperatively. It has become abundantly clear that when problems and controversies direct-- detrimental to the finances and treatment of pool members arise, the Department of Insurance requires additional specific authority to correct them. I urge

you to not advance any legislation amending the
Intergovernmental Risk Management Act without these changes.

WILLIAMS: Thank you, Director Ramge. Senator McCollister.

McCOLLISTER: Thank you, Chairman Williams. Do you have a
specific-- specific proposal to give us with regard to the
discretionary authority that you'd seek?

BRUCE RAMGE: I do not at this time, but it is something that we
would certainly be willing to-- to work with the committee and
the pool with.

McCOLLISTER: Thank you, Director.

BRUCE RAMGE: Yes.

WILLIAMS: Senator Kolterman.

KOLTERMAN: Director Ramge, do you have any-- of all the pools
you work with, have you had any problems over the years?

BRUCE RAMGE: Just-- this is the only major problem that has
arisen.

KOLTERMAN: All right. Thank you.

BRUCE RAMGE: Yes.

WILLIAMS: And Director Ramge, the suggestions that you have in your testimony are not included in LB573, is that correct?

BRUCE RAMGE: That is correct.

WILLIAMS: Thank you. Any additional questions? Thank you for your testimony,--

BRUCE RAMGE: Thank-- thank you.

WILLIAMS: --Director.

WILLIAMS: Additional opponents. Good afternoon.

DESIRAE SOLOMON: Good afternoon. Good afternoon, Senator Williams, members of the committee, my name is Desirae Solomon, that is spelled D-e-s-i-r-a-e S as in Sam-o-l-o-m-o-n. I am here in my capacity as the city attorney for the city of Blair and to represent the city of Blair's interest in opposing this particular bill. Admittedly the city is not a member of LARM, but why we are following this bill and why we are opposed to it is because LARM is available for the city of Blair to utilize as a mechanism of obtaining affordable insurance. At this particular time, we have insurance through a different company, but because the existence of LARM is there, it drives competition. It assists municipalities like the city of Blair of

obtaining and using that availability against other different insurance companies to obtain the lowest bid possible. It also enables us to look at the coverage that is available with LARM or to ask those members of LARM about their different coverage that is available to see if the coverage we are actually getting through the independent sector is covering the needs of our municipality. And not to be repetitive, but we do echo some of the same comments that were made by some of the other opponents before you. But again, we urge this committee not to advance this bill and to make it postponed indefinitely.

WILLIAMS: Thank you, Ms. Solomon. Questions? Seeing none, thank you for your testimony.

DESIRAE SOLOMON: Thank you.

WILLIAMS: Next opponent. Welcome, Ms. Rex.

LYNN REX: Thank you. Senator Williams, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And I'm handing out to you a copy of LARM's interlocal agreement which is the foundational document of LARM. And this is, I think, extremely important for you to look at page four. I just want to highlight a couple of things here and then respond to some of the policy arguments that have

been raised today. I would indicate that one of the things that we certainly agree with is that public dollars have to go for a public purpose. I will tell you that the League of Nebraska Municipalities spent a lot of time and effort and resources over the years developing the League Association of Risk Management, and the reason is exactly what was noted with-- with the individual from Blair, Nebraska, the same issues that you have with the city of North Platte. We have a number of cities in Blair-- in-- in the League Association of Risk Management, 164. Of those, about 140 are municipalities. And I just want to underscore the point that many of them went out for bid and nobody came. We've already talked about what happened back in the 1980's. That's still happening today. We have municipalities in this state that, today, go out for bid and nobody comes. And the reason why the League of Nebraska Municipalities is doing whatever we can to make sure that we are in a-- in a position to have a viable and strong pool for our members is for that very reason because we do remember what it was like when municipalities would go out for bid, again, and there was no alternative. And that's what the League Association of Risk Management does. That's what ALICAP does for the schools. That's what, basically, the other programs have, whether it's in Nebraska Association of Resources Districts, and others as well.

So with that, I-- I would like, now that you all have copies of the interlocal agreement, if you turn to page four, what you'll note here is in the middle of the page, 8.1.4, it talks about board election procedures. And I'm not going to go through each and every part of it. But for example, in 8.1.4.2, each participating member may cast one vote for each of the board positions and the open board positions. LARM for years and years had members' meetings, and-- our outside-- our former outside council gave an opinion basically saying that he didn't think that was necessary, that there could be an appointment process. That's part of the reason why we got into the situation we're in. But as soon as members were notified and the-- the-- not only the attorney, the then attorney for LARM, the board chair of LARM, and the pool director of LARM, and other board members that, in fact, there-- there was a disconnect between the interlocal agreement as well as the bylaws. And you have to have a proper governing body. You just can't be in a position where you can't do that. So, Senator Williams, one of the questions you asked was were there any efforts to negotiate before going into litigation. The answer is yes. Basically, the issue came down to making sure that we have a board-- had a valid board. Our current counsel, Cline Williams, has made it very clear that, in fact, you just can't keep serving forever if you're-- if you're

not properly elected, not properly appointed. And basically, under the interlocal agreement, again which all governing bodies of the entities that join LARM signed and approved with a vote of their governing bodies, you have to have folks that are prepared to be at-- at a members' meeting. They're now aware of that. And once you become aware of it as a board member, you have to act on that. You just can't keep going on as though you can show up for meetings and do things. And so in any event, that is the reason why you have 57 members in March of 2018 decide to have a members' meeting of March 21, 2018 followed with another one on September 19, 2018 to have a valid board. So frankly, we were hoping that they might even submit their names if they wanted to be a part of this, but they did not choose to do that. Instead, as is noted, I think, by one or two testifiers before me, we're somewhat surprised on the motion for summary judgment on the quo warranto action to find that Mr. Domina indicated that, not only does he agree that none were elected at a members' meeting but that not one of the remaining five members wants to serve on the purported board. And as our current chair of the duly elected board indicated, they need to resign. And I do think that this is a-- a very important issue. I will tell you that some of the comments that have been made here underscore the fact that there's a-- there's a perception

that's-- a false narrative being created here. What this is about is a September 20-- September 27, 2017, there was an effort to try to, and it's an ongoing effort, to basically have LARM spin off as a nonprofit, that's what's happening, to become LARM, Inc. And in fact, September 27, 2017, there was a motion passed by the-- the then-purported board to say that they would have a trademark name of LARM. Well, they had already filed the trademark name before the board even authorized it. For-- frankly, Mr. Lindsay and all of you worked with him for years, very good lobbyist. Our concern is not that he's lobbying on their behalf. Our concern is that the pool director had no authority to hire him. And in fact, I would reference-- and again I'm not-- this is no reflection on John. John does a good job. That's no reflection on him. Please turn on page ten of the interlocal agreement, item number 15, the administrator, who by the way is me, the league executive director-- whoever that may be-- whoever is the league executive director, on page ten, may retain the services of such legal counsel, actuaries, auditors, engineers, surf-- service providers, consultants, and other advisors as it deems necessary to carry out the business and purpose of LARM. So in any event, again, there's just a lot of activity happening that is not authorized by the board. In fact, the board after-- a week after the bill was introduced on

January 22, the purported board authorized, basically, the support of it. So I'm happy to respond to any questions that you might have. We certainly hope that you would indefinitely postpone this bill. There are other bills that perhaps you could amend into to deal with some of the issues to strengthen the role of the Nebraska Department of Insurance because, again, we appreciated the fact that they disapproved bylaws that the purported board passed on March 14 which clearly violated the interlocal agreement.

WILLIAMS: Thank you, Ms. Rex. Questions? Seeing none, thank you for your testimony.

LYNN REX: Thank you for your time. Thank you.

WILLIAMS: Invite the next opponent. Welcome.

MEGAN BOLDT: Thank you. Good afternoon, my name is Megan Boldt, M-e-g-a-n B-o-l-d-t. I am the director of the ALICAP insurance program and I'm also here representative of the Nebraska Association of School Boards. I am here today in opposition of LB573. ALICAP stands for All Lines Interlocal Cooperative Aggregate Pool. Essentially, ALICAP is the state school pool which is administered by the Nebraska Association of School Boards. ALICAP provides its participating member school

districts with work comp, property, liability, errors and omissions, crime, auto, pollution, flood, cyber liability, and more school-specific coverages. ALICAP was formed in 1990, when some school districts in the state were unable to obtain insurance coverage. It started out as a work comp-only pool and then expanded to all lines in the 1995-96 school year. To date, we have 168 schools in our participating pool out of the 240 that are in the state. Each member is an owner of ALICAP and is treated as such. We collect premiums at the beginning of a school year and encourage and assist our school districts in being as safe as possible. We focus on loss control statewide as we view the dollars that are not spent on claims as money we can give back to the school districts since they are owners. Since 1990, ALICAP has given back \$20 million to its member school districts and ESUs. Some of the current participating ALICAP members include Grand Island, Westside, Gretna, Centennial, York, Wynot, West Holt, Randolph, Gothenburg, Lexington, Ponca, and Ravenna, just to name a few. Because of the Intergovernmental Risk Management Act and our relationship with the NASB, ALICAP is able to assist-- exist at the very reasonable expense to our schools. This structure allows public entities to come together and customize their insurance coverage because it is governed by its participating members. Currently

with our interlocal agreement, our ALICAP board members are nominated at our pool's annual membership meeting, then appointed-- through that nominating committee appointed by the NASB board, and then approved by our ALICAP board. We have found that this procedure has worked well. LB573 seems to be attempting to fix the problem that we do not have. In fact, LB573 causes harm to the relationship between NASB and ALICAP which will be an issue for our schools and our state. NASB ALICAP does not need the legislature to change our methods for seating board members, and furthermore, over the past 25-plus years of ALICAP, we have not had any complaints in regards to the method of selecting board members. In regards to board member term limits, term limits can be detrimental to the oversight by the board. Pooling is such a unique and niche industry that long-term, tenured board members are so beneficial to our pool. To conclude, LB573 attempts to address problems we do not have. ALICAP works every day to save its members money through the structure of the Intergovernmental Risk Management Act, and we have been successful in doing so. Without ALICAP, the school districts and ESUs in our state would have less of a voice in their insurance coverage. The arrangement and-- and relationship ALICAP has with NASB is very healthy and successful for our schools. We want to keep it that way. We encourage the

committee to indefinitely postpone LB573, and I would be happy to answer any of your questions.

WILLIAMS: Thank you, Ms. Boldt. Questions? Senator McCollister.

McCOLLISTER: Thank you, Chairman Williams--

MEGAN BOLDT: Yep.

McCOLLISTER: --and thank you for coming here today.

MEGAN BOLDT: You're welcome.

McCOLLISTER: As of last December, what's the amount of the reserves?

MEGAN BOLDT: A little over \$10 million; between \$10 and \$12 million.

McCOLLISTER: And how much in the way of claims do you have, typically, in a year?

MEGAN BOLDT: That really depends. I'll tell you that the winter in the state of Nebraska dictates what our claims might be in a specific year. Slips, trips, and falls are the number one claim in school districts in the state, but we handle usually around 1,000 claims per school year. But the dollar range can change 5, 5 or 6 million, 7 to 8 million depending on the year.

McCOLLISTER: So, worker comp claims are your biggest?

MEGAN BOLDT: They are our biggest cost. Yes.

McCOLLISTER: Well, thanks again.

MEGAN BOLDT: Yeah, you're welcome.

WILLIAMS: Additional questions? Seeing none, thank you, Ms.

Boldt--

MEGAN BOLDT: Thank you.

WILLIAMS: --for your testimony. Next opponent. Welcome, Mr.

Bell.

ROBERT BELL: Greetings, Chairman Williams and members of the Banking, Commerce and Insurance Committee, my name is Robert M. Bell, last name is spelled B-e-l-l. I'm the executive director and registered lobbyist for the Nebraska Insurance Federation, here to testify today in opposition to the passage of LB573. For the record, the Nebraska insurance Federation is a primary trade association of insurers domiciled in or with a significant economic presence in Nebraska. Currently, the federation consists of 26 member companies and 7 associate companies representing a spectrum of insurers from small insurers to Fortune 500 companies. Members write all lines of insurance. One

of the goals of the federation is to promote the concepts and importance of private insurance products to policymakers and the public. Nebraska insurers provide high-value, quality insurance products to Nebraskans that help protect Nebraskans during difficult times. And, not only do Nebraska insurers provide protections to Nebraskans but the companies also provide high-paying jobs. Members of the Nebraska Insurance Federation alone provide nearly 15,000 jobs to the Nebraska economy. There's some differences between private insurance pools, and I thought I just might point a couple of those out. One, my-- my federation members are in direct competition with risk management pools. There-- and there might-- there could very well be good policy reasons to have pools. Obviously, they're there to save money, as you heard, taxpayer money. A couple of differences I would highlight, pools and their members have tax-levying authority which obviously insurers do not. They-- there's also a provision within the Intergovernmental Risk Management Act I heard Ms. Rex talks about-- talk about how members go out to bid and no insurers come to the table. Well, to get out of a pool, I believe according to statute, you have to give 90 days' notice and it's complicated. It's-- it's hard. It's easy to check in but it's hard to check out, right? So and that's a little bit different than private insurance. This

schism that I've heard about today could not happen at an insurance company. The Department of Insurance would not allow it of a domestic insurance company. They would come in and they would-- they have punitive things that they can do to an insurance company to assure that this would not happen. And so all of the-- not that private insurers don't have problems. Certainly they probably do from time to time, and through the help of the Department of Insurance those-- those problems are cleaned up. But if-- if a company treated North Platte the way I hear-- I heard North Platte talk about how it was treated by LARM, it would be fined and would be fined significantly by the Department of Insurance. The more similar the wall is between insurers and risk pools are, the-- that-- that would be the position of the Nebraska Insurance Federation. We want to see an evening of-- of-- of the laws. And so we look at a piece of legislation like this, and though nobody-- everybody's talking about the election provisions, but there's also provisions relating to excess insurance and reserving and things that they have to do in an initial agreement. So I would just caution the committee to weigh carefully into this if it so chooses. I was going to say you should indefinitely postpone the legislation, however, if you decide to move forward with the Department of Insurance's suggestions to make things more similar, that may be

more palatable to my members. However, at this point I would suggest that you IPP the bill. Thank you for the time.

WILLIAMS: Thank you, Mr. Bell. Any questions? Seeing none, thank you for your testimony. Invite the next opponent. Good afternoon.

ANDY BARRY: Good afternoon. Senator Williams and members of the committee, my name is Andy Barry, spelled A-n-d-y B-a-r-r-y. I'm an attorney with Cline Williams and represent the League of Nebraska Municipalities, several members of LARM, and the individual members of the board of directors of LARM that was elected by members, the duly elected board elected on March 18, 2018. I appreciate the opportunity to speak to you today. Actually, most of my prepared remarks have been covered by others before me, probably most of them more-- more eloquently than I could. So I'm going to keep this very short but try to answer a couple of questions that have been-- that have been posed. My overall point today would be this, LARM's problem is not that IRMA isn't working, and it's not that the intergov-- that the interlocal agreement isn't working. The problem is that LARM's staff and the purported LARM board don't want to follow the interlocal agreement. So we don't have a problem with the statute that needs to be solved. The documents that I've handed

out support a number of the things that have been-- that have been stated today. But toward the beginning of the hearing, Senator La Grone asked a question about the potential effect of LB573 on the ongoing litigation. And I think it would be dangerous to presume that there won't be an effect if LB573 was passed. I think it's more likely that there would be an effect. As you'll see in the materials I handed out, on February 8 of this year, the purported LARM board all admitted that they weren't properly elected and that their terms of office have expired. And so there's really no legal basis for them to serve on this board. But what their lawyer asked the court at a hearing on March 1 was that they'd be allowed to remain in office anyway until an election can be held. And to us this bill, LB573, seems like part of that strategy to hang on in office. And I think LB573 has been pitched to this committee as being able to-- taking problems out of the courts and putting them in front of the Secretary of State. But I think it really raises more questions than it answers and creates the potential for even more litigation over what LB573 requires. And I'll just give one example here. But LB573 would require the interlocal agreement to be rewritten while an interlocal agreement is an agreement that's signed by all the members. So what if the members can't agree on a single local agreement in a single

voting protocol? What happens then? Do we have two risk management pools? Do we have three or four risk management pools? And then what happens to the surplus that's in the risk management pool that members have contributed over the years? And LARM currently has an \$11 million surplus sitting in that risk management pool and no provision for allocation of-- of that surplus if members withdraw. So you're talking about potentially huge problems if-- if LARM is required to write-- rewrite it's interlocal agreement. And of course, LARM is not the only interlocal entity that's-- that's going to be affected by LB573 if it passes. So you know, in short, we think the-- the law works. LARM needs to follow its interlocal agreement. We have confidence in the ability of the courts to ensure that that happens. And we thank the committee for its time today.

WILLIAMS: Thank you, Mr. Barry. Questions? Seeing none, thank you--

ANDY BARRY: Thank you.

WILLIAMS: --for your testimony. Invite the next opponent. Seeing no one coming forward, is there anyone here to testify in a neutral capacity? Seeing no one, while you're coming up Mr. Hans-- or Senator Hansen, we do have one proponent letter from Lane Danielzuk, League Association of Risk Management, two

opponents, Joe Leyland from Imperial and Craig Nelson from the Nebraska Intergovern-- Intergovernmental Risk Management, and no neutral letters. Senator Hansen, you're invited to close.

M. HANSEN: Thank you, Senator Williams, and thank you, members of the committee. And thank you to-- as always, thank you to all the testifiers both for and against. I think that brought a lot of clarity to some of the things that have been going on. Part of the reason I introduced this bill, or the main reason I introduced this bill, or-- or agreed rather to carry this bill is probably a better way of saying that, is-- is that there is-- there is an issue going on right now, and I didn't necessarily want to relitigate the ongoing lawsuit. I frankly was hoping that the lawsuit would have been settled before this time here so we can kind of move on and think of best practices going forward. And that's still the way I want to view this bill. To Senator La Grone's point, I don't know if there's a later-- an effective-- an enforcement date, an effective date, an enactment date that we can take to kind of settle this. Let this side-- settle and say from-- from now on, once this is settled, maybe something like that. But I think you kind of heard the crux of the issue and even saw it again in the letters representing-- representing itself. There's one organization that had people purportedly representing it testify both for and against. You

know, there's this-- in the discussion of the purported board and-- versus the duly elected board, and I-- and I think there's probably some view that both boards feel themselves to be the duly elected board and hence why I decided-- thought this is important. If we're reaching a situation where considerable amounts of public tax dollars are being used and it's not 100 percent clear who represents the organization controlling the tax dollars, that seems like a very wise position for the state to step in and enforce clarity. I'm not married to any of this language, but I-- it was an important enough issue and is a clear enough issue for me that I thought it was worthy of a public hearing. And that's what we got here today. So thank you for your time and your courtesy.

WILLIAMS: Thank you, Senator Hansen. Any questions for the senator? Seeing none, that will close the public hearing on LB573. Let's take a short, ten-minute break.