

SENATE FINANCE COMMITTEE  
February 23, 2017  
9:01 a.m.

[9:01:01 AM](#)

CALL TO ORDER

Co-Chair Hoffman called the Senate Finance Committee meeting to order at 9:01 a.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair  
Senator Click Bishop, Vice-Chair  
Senator Mike Dunleavy  
Senator Peter Micciche  
Senator Donny Olson  
Senator Natasha von Imhof

MEMBERS ABSENT

Senator Anna MacKinnon, Co-Chair

ALSO PRESENT

Chris Hladick, Commissioner, Department of Commerce, Community, and Economic Development; Lori Wing-Heier, Director, Division of Insurance, Department of Commerce, Community and Economic Development.

SUMMARY

ALASKA'S REINSURANCE PROGRAM, IMPLEMENTATION OF HB 374 (2016) - DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT

Co-Chair Hoffman noted that Co-Chair MacKinnon was ill and would not be present at the meeting.

^ALASKA'S REINSURANCE PROGRAM, IMPLEMENTATION OF HB 374 (2016) - DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT

[9:01:57 AM](#)

CHRIS HLADICK, COMMISSIONER, DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT, thanked the committee for its work on HB 374; he especially thanked Co-Chair MacKinnon for her leadership on the issue. He explained that the legislation authorized the reinsurance program, and gave the Division of Insurance the authority to apply to the federal government for a 1332 waiver.

[9:03:19 AM](#)

LORI WING-HEIER, DIRECTOR, DIVISION OF INSURANCE, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, discussed the presentation "Senate Finance - Update On The Implementation Of HB 374 & Alaska's 1332 Waiver Application" (copy on file).

Ms. Wing-Heier turned to Slide 2, "The passage of HB 374":

The 29th Legislature passed HB 374 in June of 2016.

This bill:

- created the Alaska Reinsurance Program within the Alaska Comprehensive Health Insurance Association (ACHIA)
- created the Alaska comprehensive health insurance fund
- Appropriated 55 million dollars in insurance premium tax revenue to the fund
- Authorized the Division of Insurance to apply for a 1332 waiver under the Affordable Care Act

Ms. Wing-Heier explained that HB 374 had been presented to the legislature as a way to stabilize the market by recreating ACHIA as a reinsurance pool, rather than a direct high-risk pool. She said that the guaranteed issue provision of the Affordable Care Act assured that no one may be declined coverage due to a pre-existing provision. She said that previously, the person had to have been declined insurance on the individual market, and have certain diagnostic conditions, in order to qualify. The bill adjusted this by making ACHIA a reinsurance program, which releasing ACHIA from being a primary insurer.

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Ms. Wing-Heier showed Slide 3, "ACHIA":

- ACHIA is a non-profit legal entity incorporated under Title 21, Chapter 55 on January 1, 1993.
- ACHIA was created to provide Alaskans who were denied health insurance the opportunity to purchase coverage.
- ACHIA enrollment declined due to the Affordable Care Act Guarantee Issue beginning on January 1, 2014.

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Senator Micciche queried the definition of "reinsurance".

Ms. Wing-Heier detailed that if an individual in the state, in the individual market, diagnosed with conditions listed within the regulations that follow HB 374, insurance would be purchased from Premera - the only provider in the state. She continued that Premera would then pay the claims and then cede the claim to ACHIA. She said that individuals would never be aware that they were insured under the program; individuals in the program remained unidentified and did not know that they were being reinsured by the state through the program.

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Senator Micciche stated that there was a Health Insurance Portability and Accountability Act (HIPAA) compliant agency within the state that was dealing with secondary claims. He asked whether this would be considered managed care.

Ms. Wing-Heier replied that regulations had been adopted when the bill was enacted. She said that there was a grant agreement to get the funds to ACHIA, and then there was a contract between ACHIA (a state entity) and an administrator. She said that the department worked diligently to be sure that state funds were handled carefully.

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Ms. Wing-Heier presented Slide 4, "ACHIA":

The eligibility requirements for ACHIA are:

- Alaska Residency

- Medical Eligibility
  - notice of rejection from a health insurer in past 6 months
  - received restricted riders that substantially reduce coverage
  - under age 65 and covered by Medicare due to ESRD
  - diagnosis of a defined medical condition

ACHIA enrollment declined due to the Affordable Care Act Guarantee Issue beginning on January 1, 2014.

Ms. Wing-Heier specified that HB 374 had amended these requirements.

[9:10:22 AM](#)

Ms. Wing-Heier discussed Slide 5, " ACHIA Enrollment":

ACHIA enrollment declined due to the Affordable Care Act Guarantee Issue beginning on January 1, 2014.

The slide also showed a table depicting enrollment numbers for the medical portion from 2013 through 2016:

**2013**

Total Enrollment: 489

Comprehensive Enrollment Only: 421

**2014**

Total Enrollment: 211

Comprehensive Enrollment Only: 125

**2015**

Total Enrollment: 145

Comprehensive Enrollment Only: 66

**2016**

Total Enrollment: 130

Comprehensive Enrollment Only: 49

Ms. Wing-Heier explained that the reason the department retained ACHIA at all was because the state does not have Medicare supplement(pharmaceutical)coverage, and that the coverage existed only through ACHIA.

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Ms. Wing-Heier spoke to Slide 6, " Necessity for Alaska Reinsurance Program":

- The ACA required "guarantee issue" which means that all Alaskans could purchase health insurance regardless of health status.
- Insurers could not deny consumers coverage for a history of or current status of such conditions as diabetes, cancer, multiple sclerosis or cystic fibrosis.
- Due to this change in the market, consumers who previously did not have coverage and many in ACHIA shifted from the high-risk pool to the individual insurance pool.
- This shift resulted in significant increases in costs to insurers and premiums for consumers.

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Ms. Wing-Heier moved to Slide 7, " The Alaska Reinsurance Program":

- The Alaska Reinsurance Program is designed to remove the highest cost individuals from Alaska's individual health insurance market in order to reduce costs for the remainder of the pool.
- Claims received by an insurer for one of the 33 highest cost codes are paid by the insurer, and then sent to ACHIA to be reimbursed under the Alaska Reinsurance Program.

Ms. Wing-Heier reiterated that the bill had been designed to stabilize the individual market; to make a long-term solution that provided healthcare insurance to those that could not get insurance through an employer or another program. These individuals did not qualify for Medicaid expansion. She relayed that people were currently paying penalties, rather than enrolling, because premiums were too high. She related that tax credits were available for people with low to moderate income. She stressed that the program was important for 23,000 Alaskans to purchase healthcare insurance in the state. If Premera were to leave the state, there was no back-up plan, and the state did not have another insurer coming into the state to serve the individual market.

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Senator Micciche asked whether the individuals with the high-cost conditions were employed would be covered by their employer instead of ACHIA.

Ms. Wing-Heirer answered in the affirmative.

Co-Chair Hoffman asked whether there had been new entries into the pool that had come from outside the state.

Ms. Wing-Heier answered in the negative, and elaborated that the program numbers were down by about 1,000. She suspected the reduction might be a result of the downturn in the economy. She added that the fear of an appeal to the Affordable Care Act, or that enrollees might lose premium tax credits, could have resulted in the lower numbers.

Co-Chair Hoffman asked whether the advent of lower enrollments had resulted in lower program costs.

Ms. Wing-Heier responded that it was possible.

9:16:17 AM

Senator Micciche hypothesized that the state could hire the high-risk individuals and cover their healthcare costs for a fraction of the price.

Ms. Wing-Heier was not sure that the hypothetical penciled out. She agreed that the cost of the healthcare would transfer to another entity.

Ms. Wing-Heier displayed Slide 8, "Alaska Comprehensive Health Insurance Fund":

- The Alaska Comprehensive Health Insurance Fund was created within the general fund in 2016.
- Insurance premium tax dollars are deposited in the fund.
- The Fund is invested by the Treasury division and earnings are returned to the general fund.
- The Legislature may appropriate money from the fund to pay for the Alaska Reinsurance Program.
- The fund is set to sunset on June 30, 2018.

Ms. Wing-Heier recapped that most insurers in the state paid a 2.7 percent tax to the state, \$55 million of which was the basis of the HB 374 fund. The sunset date would allow the department two years to find other ways to fund the reinsurance program into the future.

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Ms. Wing-Heier turned to Slide 9, "Impact on Insurance Rates":

- 55 million dollars was appropriated from the Alaska comprehensive health insurance fund for Fiscal Year 2017.
- Premera, Alaska's sole remaining provider on the individual market, projected over 40 percent rate increases for 2017 plans in late spring of 2016.
- Actual rate increases were held to an average of 7.3 percent as a result of the reinsurance program being created and funded by the legislature.

Ms. Wing-Heier relayed that Moda consumers moving to Premera experienced higher rates.

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Ms. Wing-Heier showed Slide 10, " FY 18 Budget Request (fiscal/calendar year)":

- Insurance policies operate on a calendar year, not a fiscal year.
- Section 10 of the Governor's budget includes a request that the 55 million dollars previously appropriated for FY17 be repealed and replaced with a multi-year appropriation to cover the full policy year.

Ms. Wing-Heier noted that the department was requesting a six-month grace period to close out claims from 2017.

Ms. Wing-Heier presented Slide 11, " FY 18 Budget Request (additional appropriation)":

The Governor's budget also includes a request for an additional multi-year appropriation to fund the Alaska Reinsurance Program for Calendar Year 2018.

Co-Chair Hoffman inquired whether the grace period request was in the form of legislation.

Ms. Wing-Heier specified that the request was within the operating budget. She specified that the additional \$55 million was expected to come from FY 18, to be used for calendar year 2018.

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Vice-Chair Bishop queried the balance used in 2017.

Ms. Wing-Heier replied \$55 million. She furthered that the state had not received, or paid, a claim to date.

[9:22:20 AM](#)

Senator Dunleavy asked whether additional requests for funds could be anticipated for the program.

Ms. Wing-Heier replied that there were slides further in the presentation that would address the question.

Senator von Imhof requested clarification as to whether the ask was \$55 million or \$110 million, total.

Ms. Wing-Heier explained the \$110 million would be used for two fiscal periods.

Senator von Imhof asked how much had been used already.

Ms. Wing-Heier reiterated that no claims had been received from Premera and funds had not been paid out of the ACHIA fund.

Senator von Imhof probed whether an audit had been conducted to determine possible future payments.

Ms. Wing-Heier replied that several actuarial studies had been conducted. She shared that because the claims had started January 1, Premera had not processed them, or determined whether the claims were eligible for the program. She added that the claims had not been submitted to the fund for reimbursement. At this point the \$55 million was being held.

[9:24:31 AM](#)

Ms. Wing-Heier discussed Slide 12, "Patient Protection and Affordable Care Act":

Section 1332 provides that:

"a State may apply to the Secretary for the waiver of all or any requirements described in paragraph (2) with respect to health insurance coverage within that State beginning on or after January 1, 2017. Such application shall-

(A) be filed at such time and in such manner as the Secretary may require;

(B) contain such information as the Secretary may require, including -

i. a comprehensive description of the State legislation and program to implement a plan meeting the requirements for a waiver under this section; and

ii. A 10-year budget plan for such plan that is budget neutral for the Federal Government; and

(C) Provide an assurance that the State has enacted the law described in subsection (b)(2)."

Ms. Wing-Heier noted that the second portion of the bill allowed the state to apply for a 1332, or "innovation", waiver. She explained that the waiver would allow the state creativity when looking at their programs to determine whether there was a mechanism that would deliver the Affordable Care Act more efficiently to constituents. She explained that only Hawaii had applied, and been approved for the waiver, so far. She relayed that significant premium tax credits were paid to individuals in Alaska, she skipped ahead to Slide 18 for further discussion.

[9:26:38 AM](#)

Ms. Wing-Heier moved to Slide 18, "Oliver Wyman Actuarial Report," which showed a data table entitled, "APTCs and Individual Market Enrollment by Scenario and Year." She commented that if the state had a rate increase of 7.3, as opposed to the 42 percent projected by Premera, premiums would be suppressed. She said that the premium tax credits, which were based on tax premiums, were lower, and paid by the federal government. She said that Alaskans of low to moderate income in the individual market were not being paid on as much because of HB 374. The modeling on the slide suggested greater actions would be needed to increase the affordability of coverage, the reinsurance program

would help bring some much-needed stability to the individual health insurance market in Alaska.

Ms. Wing-Heier asserted that the department would ask the federal government to fund the program through the waiver. She said that the waiver was completed, and that the federal government was supportive of the program.

[9:30:30 AM](#)

Senator Micciche referred to Slide 5, showing the total ACHIA enrollment. He felt the program would reduce premiums across the board.

Ms. Wing-Heier answered affirmatively, noting that not only would premiums be reduced for high-risk individuals, but everyone in the individual market. She stressed that rated could not be based on a person's condition.

Senator Micciche wondered whether the actuals were high for individuals.

Ms. Wing-Heier stated she could provide actual claim numbers. She said that they were astounding. She warned that there were not enough people in the program to pay the cost through 2026.

[9:32:44 AM](#)

Senator von Imhof asked whether Premera Blue Cross would provide data on their profit and loss numbers.

Ms. Wing-Heier answered in the affirmative. She reiterated that only after the claims were paid would Premera receive the \$55 million.

Senator von Imhof understood that \$55 million had been set aside based on actuarial data. She thought that the request for more money was premature.

[9:34:40 AM](#)

Vice-Chair Bishop asked whether the department had asked for retroactivity on the \$110 million when requesting the 1332 waiver.

Ms. Wing-Heier stated that because that the waiver would not be effective until 2017, retroactivity was not an option.

Senator Micciche discussed the five Medicaid reduction actions being examined by the Department of Health and Social Services. He asked how the reductions might affect the services available to high-risk individuals.

Ms. Wing-Heier replied that some of the high-risk individuals could have migrated to Medicaid expansion in 2017, and dropped the cost of the individual market. She stated that when the department came before the legislature with HB 374, in 2016, they had yet to see the impact of Medicaid expansion. She thought that at this point in time the expansion had proved positive for the individual market. She related that the department had reached out to providers to address the cost of healthcare. She contended that the problem was complicated and had no simple solution. She said that the department was working closely with DHSS on the issue of healthcare.

[9:38:04 AM](#)

Senator Micciche understood that a lesser ask in 2018 could not be expected.

Ms. Wing-Heier responded that approval of the waiver would result in a significantly smaller ask in 2018.

[9:38:37 AM](#)

Senator Dunleavy queried the best-case scenario for funding in three years' time.

Ms. Wing-Heier commented that the changeability of national politics would affect the program in ways that could not be predicted. She expressed that currently the federal government seemed supportive of the waiver and the reinsurance program. She furthered that current bills and proposals to repair the Affordable Care Act supported the program and the funding of the program, which indicated to her that the state was going to receive the federal funding to continue the program.

Senator Dunleavy restated his question that if the bill were to pass, and funding were to be received, what would

the department request for funding over the next three years.

Ms. Wing-Heier showed Slide 19, "Five Year Funding Projection," to address Senator Dunleavy's question. She said that the Estimated State Funding column on the far right offered the department's projection.

Senator Dunleavy understood that the state could face an ask of \$55 million every year into the future.

[9:40:52 AM](#)

Senator Micciche wondered what was happening in other low-population states concerning dropping high-risk pool programs.

Ms. Wing-Heier stated that the other states had not found solutions and were working on the problem in ways similar to Alaska. She noted that states were waiting to see what would happen to the Affordable Care Act on the federal level, and with Alaska's waiver.

Senator Micciche asked whether other state's rate-payers had a 40 percent increase, rather than a 7 percent increase.

Ms. Wing-Heier said that she could supply the rate increases for every state. She asserted that those increases had been significant, and that Alaska was not the only state down to one insurer. She assured the committee that this was not a problem unique to Alaska.

[9:42:53 AM](#)

Senator Micciche asked whether there was a magic number at which the overall number of people, in the overall insurance pool, could absorb the insurance costs without dramatic increases.

Ms. Wing-Heier stated that spreading the cost across a small pool was difficult, but that this was the work that presented itself to the state.

[9:43:51 AM](#)

Senator Micciche recounted that he had met with Senator Murkowski the previous day. He had asked about whether an adjustment factor in the Medicaid reimbursement rates for certain states with either a low population density, or lack of connectivity to the road system, had ever been pursued.

Ms. Wing-Heier thought that the question could be best answered by Department of Health and Social Services Commissioner Valerie Davidson. She added that Commissioner Davidson was working to assure that funding out of Washington D.C. not be in the form of block grants, and not be per capita, to address the rural areas of the state.

[9:45:26 AM](#)

Senator von Imhof looked at Slide 20, "Current Status":

On January 17, 2017 the Departments of Health & Human Services and the Department of the Treasury deemed the application "complete".

"I would note that before the Departments can approve the waiver as proposed, legislation appropriating the funds for the ARP, contingent upon approval of the waiver, must be enacted in Alaska" - Secretary Burwell

Senator von Imhof interpreted the language to say that if the state did not appropriate, per the request of the department, the waiver application would be in jeopardy.

Ms. Wing-Heier agreed.

Ms. Wing-Heier addressed Slide 20. She said that the language came from a letter to Governor Walker that deemed the application complete, and asked that it be contingent upon approval that the state provide funding for a five-year period. She added that the department was working to craft language acceptable to the legislature.

Co-Chair Hoffman asked when the legislature could expect the final language.

Ms. Wing-Heier hoped that the language would be in place as soon as possible.

[9:47:19 AM](#)

Vice-Chair Bishop expressed concern for the monthly health insurance premiums for his constituents. He thought that the legislation would help in terms of the bigger economic cost to the state.

[9:48:45 AM](#)

Senator Dunleavy asked Ms. Wing-Heier whether the department had modelled what would happen if the funding did not come through for the program.

Ms. Wing-Heier replied that the only other option would be for the state to set up an insurance company, which was not a viable option. She lamented that the Affordable Care Act did not offer the state a backup plan if Premera decided not to cover certain areas. She opined that the state stepping in was not the most attractive solution, but it had been the only one available to the department upon passage of HB 374.

Senator Dunleavy felt that the plan was not sustainable in the long run.

[9:51:22 AM](#)

Senator von Imhof asked to return to Slide 19. She asked whether the \$55 million for FY 18 was necessary in order to receive the waiver, or would the state need to contribute the nearly \$63 million listed in the estimated state funding column.

Ms. Wing-Heier specified that the state needed the contingency to support the five-year waiver. She said that because this was estimated state funding the department hoped that the numbers that the state paid in claims would decrease. She stated that the department was asking for the \$55 million, but that current numbers indicated the nearly \$63 million.

Senator von Imhof understood that funding of approximately \$63 million, over five years, would be sufficient for the department to receive the waiver.

Ms. Wing-Heier answered affirmatively.

Commissioner Hladick added that legislative language would also be required.

Senator von Imhof asked what the legislative language might be.

Ms. Wing-Heier pointed to the contingency language on slide 20:

On January 17, 2017 the Departments of Health & Human Services and the Department of the Treasury deemed the application "complete".

"I would note that before the Departments can approve the waiver as proposed, legislation appropriating the funds for the ARP, contingent upon approval of the waiver, must be enacted in Alaska" - Secretary Burwell

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AT EASE

[9:56:40 AM](#)

RECONVENED

Ms. Wing-Heier moved to Slide 21, " Federal Outreach":

Briefings have been provided to:

- President Trump's transition team
- Senator Murkowski
- Senator Sullivan
- Secretary Price
- Congressman Young

The Division Director has worked to keep the federal delegation informed of Alaska's efforts, and to garner support.

Ms. Wing-Heier explained that the department had worked closely with the entities listed and had received nothing but positive support.

Co-Chair Hoffman asked whether the administration had asked Secretary Price, or the congressional delegation, for a grant to use the program as a demonstrative project for the nation.

Ms. Wing-Heier thought the idea had been discussed widely, and knew the governor was speaking to the issue with the

National Governor's Association. She said that Alaska's process was being closely followed on the national level.

[9:58:45 AM](#)

Senator Micciche contended that the department had asked for 43 percent more than the \$62 million required over the next five years; a \$47 million-dollar difference. He wondered whether the legislature could fund \$13 million per year, or did the department need the five-year funding commitment.

Ms. Wing-Heier stated that the waiver was a five-year program, and the federal government was expecting a five-year commitment.

[10:00:09 AM](#)

Ms. Wing-Heier displayed Slide 22, "Next Steps":

- The Governor's FY18 Budget Request includes a \$55 million-dollar appropriation to fund the Alaska Reinsurance Program for Calendar Year 2018.
- DCCED is working with CMS to clarify what language or action would be deemed responsive to Secretary Burwell's request.
- DCCED will submit an RPL following federal approval of the waiver.

Co-Chair Hoffman asked whether the RPL would pertain only to the State of Alaska.

Ms. Wing-Heier answered in the affirmative.

Commissioner Hladick commented that the department was working with the legislature through the Affordable Care Act reforms directed by the federal government. He said a presentation had been made in a closed-door meeting on the federal level that had addressed issues specific to Alaska. He said that the department would continue to work for the federal government on behalf of the state.

Co-Chair Hoffman thought that the issue would be the topic of future conversation.

#

ADJOURNMENT

[10:02:33 AM](#)

The meeting was adjourned at 10:02 a.m.