

**ALASKA STATE LEGISLATURE**  
**SENATE LABOR AND COMMERCE STANDING COMMITTEE**

April 20, 2022

1:32 p.m.

**MEMBERS PRESENT**

Senator Mia Costello, Chair  
Senator Peter Micciche  
Senator Gary Stevens  
Senator Elvi Gray-Jackson

**MEMBERS ABSENT**

Senator Joshua Revak, Vice Chair

**COMMITTEE CALENDAR**

CONFIRMATION HEARING(s)

Alaska Workers' Compensation Board  
Mathew Barth - Anchorage

- CONFIRMATION ADVANCED on 5/2/2022

Board of Certified Direct-Entry Midwives  
Hannah St. George

- ITEM REMOVED FROM AGENDA

SENATE BILL NO. 238

"An Act relating to the business of money transmission; relating to money transmission licenses, licensure requirements, and registration through the Nationwide Multistate Licensing System; relating to the use of virtual currency for money transmission; relating to authorized delegates of a licensee; relating to acquisition of control of a license; relating to record retention and reporting requirements; authorizing the Department of Commerce, Community, and Economic Development to cooperate with other states in the regulation of money transmission; relating to permissible investments; relating to violations and enforcement of money transmission laws; relating to money transmission license exemptions; relating to payroll processing services; repealing currency exchange licenses; and providing for an effective date."

- MOVED SB 238 OUT OF COMMITTEE

SENATE BILL NO. 175

"An Act relating to telehealth; relating to the practice of medicine; relating to medical assistance coverage for services provided by telehealth; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

SENATE BILL NO. 197

"An Act relating to direct health care agreements; and relating to unfair trade practices."

- BILL HEARING CANCELED

**PREVIOUS COMMITTEE ACTION**

BILL: SB 238

SHORT TITLE: MONEY TRANSMISSION; VIRTUAL CURRENCY

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/25/22	(S)	READ THE FIRST TIME - REFERRALS
03/25/22	(S)	L&C, FIN
04/20/22	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

MATTHEW BARTH, Appointee  
Alaska Workers' Compensation Board  
Department of Labor and Workforce Development (DOLWD)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified as an appointee to the Alaska Workers' Compensation Board.

ROBERT SCHMIDT, Director  
Division of Banking and Securities  
Department of Commerce, Community and Economic Development  
Anchorage, Alaska

**POSITION STATEMENT:** Delivered a PowerPoint to introduce SB 238.

TRACY RENO, Examinations Chief  
Division of Banking and Securities  
Department of Commerce, Community and Economic Development  
Anchorage, Alaska

**POSITION STATEMENT:** Provided information and answered questions during the hearing on SB 238.

THOR STACEY, Alaska State Director  
National Federation of Independent Business (NFIB)  
Juneau, Alaska

**POSITION STATEMENT:** Testified that NFIB did not have a vetted position on SB 238.

**ACTION NARRATIVE**

[1:32:52 PM](#)

**CHAIR MIA COSTELLO** called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Gray-Jackson, Stevens, and Chair Costello. Senator Micciche arrived immediately thereafter.

**CONFIRMATION HEARING(S)**  
**Alaska Workers' Compensation Board**

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**CHAIR COSTELLO** announced the consideration of Governor Appointees to Boards and Commissions. She asked Mathew Barth to tell the committee about his interest in serving on the Alaska Workers' Compensation Board.

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**SENATOR MICCICHE** joined the committee.

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**MATTHEW BARTH**, Appointee, Alaska Workers' Compensation Board, Department of Commerce, Community and Economic Development (DCCED), Anchorage, Alaska, stated that he was appointed to the statewide labor seat. He relayed that he had been a police officer in Anchorage for about 15 years and he looked forward to applying his skills as a member of the Alaska Workers' Compensation Board. He had attended meetings and enjoyed the collaborative effort to fairly and equitably solve problems that come before the board. He offered to answer questions.

**CHAIR COSTELLO** asked if he was appointed January 24, [2022].

**MR. BARTH** said that sounds about right.

**CHAIR COSTELLO** asked him to share what he would like to accomplish and what he saw as major challenges facing the board.

MR. BARTH offered that his law enforcement experience allows him to step back to focus on the evidence and what the law says in order to work through matters with the other board members.

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CHAIR COSTELLO thanked him for being willing to serve.

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CHAIR COSTELLO opened public testimony on the appointment of Mathew Barth to the Alaska Workers' Compensation Board; finding none, she closed public testimony.

CHAIR COSTELLO advised that the names of all Governor appointees referred to the Senate Labor and Commerce Standing Committee would be forwarded at a later date. [This occurred on 5/2/2022.]

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At ease

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CHAIR COSTELLO reconvened the meeting.

**SB 238-MONEY TRANSMISSION; VIRTUAL CURRENCY**

[1:38:55 PM](#)

CHAIR COSTELLO announced the consideration of SENATE BILL NO. 238 "An Act relating to the business of money transmission; relating to money transmission licenses, licensure requirements, and registration through the Nationwide Multistate Licensing System; relating to the use of virtual currency for money transmission; relating to authorized delegates of a licensee; relating to acquisition of control of a license; relating to record retention and reporting requirements; authorizing the Department of Commerce, Community, and Economic Development to cooperate with other states in the regulation of money transmission; relating to permissible investments; relating to violations and enforcement of money transmission laws; relating to money transmission license exemptions; relating to payroll processing services; repealing currency exchange licenses; and providing for an effective date."

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ROBERT SCHMIDT, Director, Division of Banking and Securities, Department of Commerce, Community and Economic Development (DCCED), Anchorage, Alaska, delivered a PowerPoint to introduce SB 238. He displayed slide 2 and made the following points:

- The Division of Banking and Securities serves as the primary regulator for the more than 150 money transmitters in Alaska who are guided by the Alaska Uniform Money Services Act (AS 06.55). The legislature passed this law in 2007 and it was implemented in 2008.
- SB 238 amends and modernizes the Uniform Money Transmission Modernization Act. It provides the legal framework for Alaska's money transmission functions to include currency exchange, transfer or wiring money, and loading and reloading payment instruments, including stored value cards.
- The law that passed in 2007 did not contemplate cryptocurrency, Bitcoin, Ethereum, DogeCoin, or the rate of money service business expansion and innovations. Alaska is not currently among the 28 states that regulate virtual currency, which is a top tool of rogue actors to evade sanctions.
- SB 238 updates the licensing, recordkeeping, and enforcement provisions to support these new business activities, while protecting Alaska consumers. The bill adopts relevant sections of the Uniform Money Transmission Modernization Act. This is the model law that was developed by state regulators and the Conference of State Bank Supervisors (CSBS), with input from industry stakeholders.

CHAIR COSTELLO asked for an explanation of cryptocurrency.

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MR. SCHMIDT began with an explanation of the origin of money transmission, which came about when people entrusted a third party to transmit their money to someone in an entirely different location. For example, in the 1880s someone in Boston might give the Western Union office \$20 to transmit to their cousin in San Francisco. It quickly became clear that regulation was necessary because people were giving what could be a lot of money to a third party to transmit and trusting that it would get to the right recipient.

MR. SCHMIDT warned that his explanation of cryptocurrency might seem unbelievable. He directed attention to slide 4 that shows both a chart and a colored bar graph to highlight the growth in the number of money transmitter/currency exchange licenses the State of Alaska has issued from calendar year 2017 (CY2017) through CY2021. In CY2017, the state issued 91 money transmission licenses and by CY2021 the number of those licenses had grown to 153.

MR. SCHMIDT explained that there are three kinds of money transmitters. One only transmits government-issued/ fiat currency; the second handles only cryptocurrency; and the third handles both real and virtual currency. He highlighted that transmitters that only handle virtual currency are not licensed or regulated by the Division of Banking and Securities, so there is no reporting. Businesses that do fiat money transmissions must have a money transmission license. Businesses that do both receive a license to transmit money, but not to transmit virtual currency; these businesses report to the division.

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MR. SCHMIDT directed attention to the colored bar graph on slide 5 that shows the volume of reported money transmission in Alaska over a three-year period. In 2019 the reported volume of money transmission in Alaska was \$1.68 billion; in 2020 it increased to \$2.8 billion; and in 2021 the reported volume of money transmission in Alaska exploded to \$7.1 billion.

MR. SCHMIDT directed attention to the bar graph on slide 6. It shows the monetary value of virtual currency transmission in Alaska reported to the Division of Banking and Securities over the same three-year timeframe. [These are the businesses that deal with both fiat currency and virtual currency.] In Alaska in 2019, \$33.6 million in virtual currency transmission was reported to the division; in 2020 that grew to \$91.7 million; and in 2021 the volume of virtual currency transmitted in Alaska and reported to the division exploded to \$2.3 billion.

He said the real nub of slide 6 is that it does not include transmissions from businesses that only handle virtual currency because they do not report to the Division of Banking and Securities. The division believes that the actual volume of virtual transmissions in Alaska is significantly higher than slide 6 indicates.

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MR. SCHMIDT turned to slide 11 and provided the following definition"

Virtual currency is a money-like asset that is managed, stored, or exchanged on a computer system and it's transmitted on the internet. Virtual currency is issued and controlled by its developers and used and accepted electronically among the members of a specific virtual community that is accepted by natural

or legal persons as a means of payment and can be stored, transferred, or traded electronically.

MR. SCHMIDT stated that a lot of what gives money value is the fact that it is backed by a government. It has intrinsic value. That isn't the case for other things that might be traded. He cited the examples of 1) a kid on the playground who has pieces of gum to trade, and 2) a work of art. These items have no intrinsic value but they do have value in the eyes of the beholder. The piece of art may be worth millions of dollars simply because people say it has that value.

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MR. SCHMIDT explained that the first Bitcoin was created when a computer was used to solve a problem. The problem became exponentially more difficult to solve to create the next Bitcoin. When people are mining Bitcoins, their computers are performing extremely difficult computations that have no purpose other than to generate Bitcoin. Bitcoin mining takes a lot of electricity when people have multiple racks of servers (computers spinning at billions or trillions of operations per second) to perform the task whose only point is to generate Bitcoin. When people question the reason for paying attention to virtual currency, he points out that there was \$2.3 billion of reported Alaska virtual currency transmission in 2021 and it was not regulated.

MR. SCHMIDT stated that the takeaway from the presentation and the purpose of SB 238 is to keep Alaska from being a conduit for virtual currency into countries like Russia, North Korea, Iran, Somalia, and others.

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MR. SCHMIDT returned to slide 3 to review what was covered in the 2008 Alaska Uniform Money Services Act. The slide read as follows:

- Money transmitters (wiring of funds)
- Issuers of traveler's checks, money orders, or stored valued cards
- Sellers or redeemers of traveler's checks, money orders, or stored value cards
- Currency dealers or exchangers; to include virtual currency and related products

MR. SCHMIDT stated that SB 238 updates the licensing, recordkeeping, and enforcement provisions to support

cryptocurrency business activities while protecting Alaska consumers. He highlighted that in the past the division has found licensed transmitters of fiat currency that have poor compliance with the Bank Secrecy Act and Office of Foreign Assets Control that identifies suspicious activity and prohibits doing business with individuals and companies that conduct money laundering or have been sanctioned for affiliating with rogue countries. He stressed the potential for Alaskans to be scammed by companies that do not have a compliance management system in place. He relayed that Alaska participates on a multistate money transmitter examination team that uses a risk-based approach to streamline state supervision to be more effective and efficient in utilizing state resources. He explained that an examination consists of a review of a company's compliance with state and federal laws and regulations in areas likely to affect the safety and soundness of the licensee. Utilizing network supervision with other states, as allowed in SB 238, would allow the division to reduce regulatory burdens by conducting less frequent examinations.

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MR. SCHMIDT briefly reviewed slides 4-6 that he described earlier. He highlighted that in CY2021 40 of the 153 money transmitter licensees conducted virtual currency business that is not currently regulated. Today, online transactions in virtual currency are a common means of exchanging and or transferring payment of value. He stressed that SB 238 is necessary to appropriately regulate money transmitters and protect Alaska consumers. He directed attention to slide 5 that shows the 6,250 percent increase in reported money transmission volume in Alaska in three years. He noted that the totals include money transmission, payment instruments, stored value, and virtual currency. This does not include business activities from individuals and businesses that only deal in virtual currency.

MR. SCHMIDT described slide 6 as the most important in the presentation. It shows the 6,782 percent increase in the volume of reported annual virtual currency transmission in Alaska from 2019 to 2021 by companies that are licensed to conduct money transmissions in Alaska and also have virtual money transmissions. He said it is important it note that the reported virtual currency transmissions grew 2,420 percent in 2021 alone. These transactions have fundamentally changed the financial services world and are growing exponentially in Alaska. SB 238 will add virtual currency activities to the definition of money transmission, which will allow the Division of Banking and

Securities to regulate this activity that accounted for almost one-third of the total money transmission volume in Alaska in 2021. He said he drilled down on the data and found further reason for concern that by virtue of the lack of regulation, Alaska is already targeted as a wild place to go for virtual currency transmission and a haven to avoid sanction.

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CHAIR COSTELLO asked, if SB 238 were to pass, what would the division be able to do that it can't now; how would the division reach out to the relevant entities; and would they have to stop current activities awaiting licensing.

MR. SCHMIDT answered that there would be transition provisions so business would not be interrupted. Virtual currency transmissions would be treated much the same way as real money transmissions. The individual or business would have to submit an application and demonstrate financial liquidity. The division performs background checks on the principals and thereafter examines the books and records of a money transmitter on a set schedule. The examinations may be performed by a team of states, each looking at different aspects of the examination. The division would conduct examinations of the books, records and internal controls for local Mom and Pop shops. He noted that in recent years the division identified a small business money transmitter that did little to comply with Banking Secrecy Act provisions and specialized in sending money to customers in a rogue nation.

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SENATOR STEVENS asked what the penalties are for not reporting.

MR. SCHMIDT deferred the question to Tracy Reno.

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TRACY RENO, Chief of Examinations, Division of Banking and Securities, Department of Commerce, Community and Economic Development (DCCED), Anchorage, Alaska, stated that there are civil penalties for an applicant who conducts business prior to licensure. The monetary value of the penalty depends on the number of unlicensed transactions conducted and whether the individual cooperated or withheld information during the investigation.

CHAIR COSTELLO passed the gavel to Senator Micciche.

SENATOR STEVENS asked how the division learns about unlicensed activities.

MS. RENO answered that the division uses the nationwide multistate licensing system (NMLS), it investigates complaints that are filed, and investigators also search the internet for this activity.

SENATOR STEVENS asked how many individuals in the division do examinations.

MS. RENO answered that one fulltime and one parttime examiner conduct examinations of money transmissions, and two investigators work in enforcement.

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ACTING CHAIR MICCICHE asked how the division regulates something whose only value is based on supply and demand.

MR. SCHMIDT answered that the bill will ensure that the people who are sending and receiving the virtual currency are following the rules and checking lists from the Office of Foreign Asset Control to ensure that inappropriate people are neither sending nor receiving and are not using Alaska as a conduit for such transmissions.

ACTING CHAIR MICCICHE noted the fluctuation of a single Bitcoin from a few hundred dollars to \$68,000 to about \$41,000. He asked if the division was seeking to ensure that the transactions are legal and not attributed to laundering or business with rogue nations, but without delving into how the value of a Bitcoin is derived.

CHAIR COSTELLO resumed the gavel.

MR. SCHMIDT replied the division wants to regulate cryptocurrency transmissions because it is being used like money. The intention is to ensure that it is not used for money laundering or to funnel money inappropriately to rogue nations.

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MS. RENO added the division wants to know how the transactions are conducted, where the currency comes from, who the currency is sent to, whether the recipients are on a sanctions list, whether the parties are tracking and maintaining the records, and if suspicious activity reported. Records are kept when money transactions take place, whether it's virtual or fiat currency,

and the division is making sure that policies and procedures are followed and that they can track and trace the transactions appropriately.

SENATOR MICCICHE noted the huge rise in valuation over a relatively short time and asked if there was a chance that a large portion of the value of cryptocurrency was associated with international money laundering.

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MR. SCHMIDT opined that the perception of anonymity associated with virtual currency was a significant part of its value.

SENATOR STEVENS questioned whether the art market was really a good comparison since the provenance of paintings are known and they have a history of being traded.

MR. SCHMIDT countered that there was an equivalent provenance in cryptocurrency because there are registries that track the virtual currency through all its different owners. For example, a Bitcoin or fraction thereof can be traced back to the time it was mined.

CHAIR COSTELLO asked him to talk about the national database that the division uses to check licensing.

MR. SCHMIDT explained that the Nationwide Multistate Licensing System was developed as a result of the housing crisis in the late 2000s. Originally it was called Nationwide Mortgage Licensing and now NMLS is a nationwide platform that is business friendly because it is uniform and thus compatible throughout all states that use the system. He deferred further explanation to Tracy Reno.

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MS. RENO added that the division uses NMLS for the licensing application process and fee payments. Should SB 238 pass, the division would also have the ability to do background checks through the FBI, which would be a great timesaver. It would automate background checks so the division could see who is running the companies, who owns the companies, the entire company record, along with any enforcement actions. Consumers would be able to search that database to see which licensees have enforcement issues in other states. Going forward, the division would also like to add the other industries it touches to streamline processes and ensure everyone is treated the same, which would reduce regulatory burdens for companies.

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CHAIR COSTELLO asking whether the department could use NMLS to do background checks for military spouses who want to transfer their professional licenses to Alaska.

MR. SCHMIDT said he didn't know that there was interoperability outside the financial industry.

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MR. SCHMIDT returned to the presentation, speaking to slide 7, Fiscal Impact and Request for Additional Staff:

**The Division of Banking and Securities (DBS) Receipts  
vs. Budget**

- Receipts in FY2012 were \$12.8 million. The FY2012 budget was \$3.5 million.
- Receipts in FY2021 were \$19.6 million. The FY2021 budget was \$4 million. [Receipts in CY 2021 were \$21.5 million.]
- Over the last 9 years, DBS receipts have grown 53% while the budget has only grown 14%.

DBS is requesting five full-time positions with the passage of this bill: Three in FY2023, one in FY2024, and one in FY2025. The total operating expenditures for DBS including the added personnel are estimated to be \$401.5 in FY2023 increasing to \$617.1 in FY2025.

New program receipt revenue is estimated conservatively at \$110,000 for 35 new license applications. DBS anticipates revenue from assessments set in regulation will cover all costs of supervision of the industry and additional staffing. [Program receipts are estimated to range from \$750,000 to \$1.2 million.]

MR. SCHMIDT paraphrased slide 8, Why Change the Act? It read as follows:

- The current law has not kept up with the industry's explosive growth and innovation.
- Consumer protection is insufficient; cryptocurrency is one of the top risks for consumer fraud.

- Virtual currency is not included in the definition of money transmission.

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MR. SCHMIDT made the following points, based on slide 9, What Does HB 408/SB 238 do?

- Reduces regulatory burden by streamlining initial licensing and license renewal by using NMLS for submitting license applications, filing documents, and fee payments.
- Removes the currency exchange license type and adds "currency exchange" to the definition of money transmission, so only one license is needed.
- Protects Alaska consumers by conducting criminal background checks through the Nationwide Multistate Licensing System (NMLS) on individuals who control the money transmission business. The division currently does background checks using third-party software, which takes about 140 staff hours per year.
- Ensures regulatory costs of supervision keep pace with growth by allowing a volume-based assessment to be implemented. Licensees will be required to report the volume of money transmissions, which will ensure that licensees are treated equitably based on their volume of business in the state.
- Broadens the definition of money transmission to include virtual currency transactions and other means of transferring monetary value to better protect Alaskans.

MR. SCHMIDT highlighted that the bill was drafted with input from the money transmission industry.

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MR. SCHMIDT paraphrased slide 10, HB 408/SB 238 Protects Consumers. It read as follows:

- Require licensees to comply with federal laws, including suspicious activity reporting.
- Increase the record retention schedule to five years for greater transparency.
- Allow criminal background checks to be run on licensees.
- Update enforcement provisions by allowing a broader spectrum of orders to be issued.

- Ensure DBS can coordinate with other states in all areas of regulation, licensing, and supervision to reduce regulatory burden on the industry and more effectively utilize regulator resources.
- Define crypto/virtual currency money transmission activities and allow regulation of those activities (aka "virtual currency," Bitcoin, Ethereum, DogeCoin).

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MR. SCHMIDT concluded the presentation with the definition of virtual currency on slide 11. It read:

**Definition of virtual currency:** Cryptocurrency or virtual currency means a digital representation of value that is used as a medium of exchange, unit of account, or store of value; and is not money, whether or not denominated in money. AS 06.55.290(5)

MR. SCHMIDT highlighted that there are recent efforts to tie virtual currencies to real currencies to make them more stable, but the fact remains that its value is much like the Mona Lisa - it's because people say it has value.

SENATOR STEVENS asked how important it is to pass the bill this year.

MR. SCHMIDT answered that his staff has been crystal clear that this bill and modernizing money transmission is the division's number one priority. The incomplete 2021 data on the volume and dollar amounts of virtual currency transmissions far exceeded any expectations. He expressed concern that by not regulating virtual currency, Alaska may well attract a problem. The preference is to work through the well thought-out framework of this legislation, but if it doesn't pass the division will be looking at regulating virtual currency through agency rulemaking. It is that critically important.

SENATOR STEVENS said he understands the urgency and he hopes the bill passes.

CHAIR COSTELLO asked if there was a House companion to SB 238.

MR. SCHMIDT answered yes; HB 408 is currently in the House Labor and Commerce Committee.

CHAIR COSTELLO asked if he was aware of any opposition.

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MR. SCHMIDT said he was surprised to learn that a nationwide payroll processor filed a letter of opposition. He noted that the industry generally was subject to the current law because, depending on the business model, they are handling consumers' funds. At the same time, money transmitters nationwide support this legislation.

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SENATOR STEVENS asked if other states have passed similar legislation.

MR. SCHMIDT answered that West Virginia passed the model legislation, which was approved by the Conference of State Bank Supervisors last fall, and legislation is pending in a number of other states across the political spectrum.

CHAIR COSTELLO thanked him for his attention to the issue and expressed appreciation that he visited her office to discuss the bill.

MR. SCHMIDT advised that he was in Juneau through this week and would be happy to speak to the members individually.

CHAIR COSTELLO asked Ms. Reno to give a brief review of the sectional analysis, highlighting the sections that are critically important.

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TRACY RENO, Chief of Examinations for the Division of Banking and Securities paraphrased the sectional analysis for SB 238 that read as follows:

**Section 1** adds a section of uncodified law expressing the purpose of the bill.

**Section 2** amends AS 06.55.101(a) which contains the requirement that a person may not engage in the business of money transmission without a license. It is amended to insert a citation to the exemption statute, AS 06.55.802, and to clarify that an authorized delegate may not engage in the business of money transmission if the actions taken would be outside the scope of authority conferred by the

written contract required by AS 06.55.301, as repealed and reenacted pursuant to Section 8.

**Section 3** repeals and reenacts AS 06.55.102 to conform with the Conference of State Bank Supervisors (CSBS) Uniform Money Transmission Modernization Act ("the model law"). This section provides the application requirements for a money transmission license and allows the Department of Commerce, Community, and Economic Development ("the department") to change or update the form to maintain consistency with Nationwide Multistate Licensing System & Registry ("NMLS" or "registry") licensing standards and practices.

**Section 4** repeals and reenacts AS 06.55.105 to conform with the model law. This section contains the department's license issuance procedures, timelines, license terms, and due process procedures. It provides that if the applicant is subject to a multistate licensing process, the department may accept the investigation results of a lead investigation state.

**Section 5** repeals and reenacts AS 06.55.106 to conform with the model law. It contains license renewal and renewal reporting requirements. As repealed and reenacted, AS 06.55.106 presents a change to license renewals, renewal reporting, and renewal terminology. In conjunction with proposed changes to AS 06.55.850, conforming to the model law also presents a change to fees collected by the department. These changes align with the model law's goal of uniform application of money transmission laws for licensees that operate in more than one state.

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**Section 6** amends AS 06.55 to add new sections AS 06.55.108, AS 06.55.109, and AS 06.55.110 to Article 1 to conform with the model law.

**AS 06.55.108** concerns maintenance of money transmission licenses. It provides that licensees must continue to meet the qualifications that apply to new applicants, and that the department may suspend or revoke a license if a licensee fails to do so.

**AS 06.55.109** concerns information requirements for certain individuals. This section contains information submission requirements for individuals in control of applicants or licensees, and "key individuals" as defined by the bill. It also contains background report requirements applicable to individuals who have resided outside of the United States in the last ten years.

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**AS 06.55.110** concerns consistent state licensing. It grants the department discretion to (1) implement licensing provisions and protocols in a manner that is consistent with other states that have adopted a multistate licensing process, (2) establish relationships or contracts that enables the department to collect and maintain records, coordinate licensing, process fees, and communicate with licensees, and (3) utilize NMLS for all aspects of licensing.

**Section 7** amends AS 06.55 to add new sections to Article 2 concerning virtual currency.

**AS 06.55.205** concerns the scope of AS 06.55.205 - AS 06.55.290 and contains a list of exempted activities. Notably, paragraph (b)(5) contains an exemption applicable to persons whose virtual-currency business activities on an annual basis are expected to be measured at \$5,000 or less, measured by the dollar equivalent of virtual currency. Subsection (c) grants the department discretionary authority to create additional exemptions for specific persons or classes of persons.

**AS 06.55.206** concerns conditions precedent to engaging in virtual-currency business activity. This section provides that virtual-currency business activity is money transmission, and therefore, unless the virtual currency business activity is exempt under AS 06.55.802, it requires a money transmission license.

**AS 06.55.207** concerns required disclosures. These disclosures are in addition to the notice and

receipt requirements for money transmission licensees found at AS 06.55.810 and AS 06.55.830. Subsection (a) grants the department discretion to require additional disclosures and to regulate the time and form required for disclosure. Subsection (a) also allows a licensee to propose alternative disclosures that are more appropriate to its business operations.

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MS. RENO highlighted AS 06.55.208 in Section 7 as particularly important.

**AS 06.55.208** concerns property interests and entitlements to virtual currency. AS 06.55.208(a) requires the virtual-currency business with "control" over virtual currency to maintain an amount of each type of virtual currency sufficient to satisfy the aggregate entitlements of the persons to each type of virtual currency. This section places the interests of customers of a licensee over the interests of creditors of a licensee.

**AS 06.55.208** is modeled off of Section 502 of the Uniform Regulation of Virtual Currency Businesses Act ("URVCBA"). 1 Official comment to Uniform Law Commission's ("ULC") URVCBA provides that Section 502 (proposed AS 06.55.208) is based on Uniform Commercial Code ("UCC") Sections 8-503 and 8-5042 and that it is intended to protect the owner of virtual currency that is entrusted to a licensee. Unlike the URVCBA, the abridged version in the model law does not create a private right of action, and instead all enforcement of virtual currency violations is by the department. Official commentary further describes that this section "takes the virtual currency under the control of a licensee off the balance sheet of the virtual currency business and beyond the business' right to deal with it as their own property. This formulation reduces the need for greater net worth ... without sacrificing user protection."

**AS 06.55.209** concerns additional requirements and clarifications for virtual currency business activities. Subsection (b) allows a licensee engaged in virtual-currency business activity to include virtual currency in its tangible net worth calculation, measured by the average value of the dollar equivalent of the virtual currency for the preceding six months. Subsections (c) and (d) contain record keeping requirements specific to virtual-currency businesses and resemble the record keeping requirements of AS 06.55.405.

**AS 06.55.210** contains definitions applicable to the virtual currency sections. It is helpful to note that when hyphenated, "virtual-currency" is an adjective or modifier, as distinct from "virtual currency" as defined in proposed AS 06.55.290(5) to signify a digital representation of value that is not money.

**Section 8** repeals and reenacts AS 06.55.301 concerning the relationship between a licensee and an authorized delegate to conform with the model law. It creates a requirement that prior to use of an authorized delegate, a licensee must adopt policies and procedures consistent with applicable state and federal law and must enter into a written contract with the authorized delegate that contains the provisions required by (c) of this section. It also contains provisions linking the authorized delegate's activities with those of the licensee in the event the licensee's license is suspended and for operation of the chapter's statutory trust provisions.

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**Section 9** amends AS 06.55.302 concerning unauthorized activities to add a joint and several liability provision applicable to persons who engage in money transmission on behalf of an unlicensed person.

**Section 10** repeals and reenacts AS 06.55.401 concerning supervision. This section contains the department's powers with respect to examination and investigation of a licensee or authorized delegate. It allows the department to accept examination reports of other states, the federal government, or an independent accounting firm. It requires licensees to

pay all costs associated with examinations and references the confidentiality requirements of AS 06.55.407. It eliminates the existing requirement of AS 06.55.401(a) that a notice be sent to a licensee 45 days prior to the annual examination.

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[MS. RENO skipped to Sections 17-18.]

**Sections 11 - 14** repeal and reenact or amend subsections of AS 06.55.403 for consistency with the model law. As reenacted, AS 06.55.403 requires quarterly reports of condition to be submitted by a licensee for its own activities (subsection (a)) and the activities of its authorized delegates (subsection (b)). It maintains existing requirements for rapid reporting to the department upon knowledge of the filing of a bankruptcy petition, proceeding to revoke or suspend a license in another state or country, bond cancellation, and criminal charges brought against a licensee, authorized delegate, or "key individual" or other person in control of the licensee. It also adds a subsection allowing the department to utilize NMLS for reports required by AS 06.55.403.

"Key individual" is a term introduced by the model law in Section 62 of the bill, proposed AS 06.55.990(34) and means "any individual ultimately responsible for establishing or directing policies and procedures of the licensee, including an executive officer, manager, director, or trustee." This terminology replaces the repealed term "executive officer."

**Section 15** repeals and reenacts AS 06.55.404 concerning acquisition of control of a money transmission licensee. This is a lengthy section containing procedural and reporting requirements for acquisition or transfer of control of licensees. It contains exceptions for acquisition of control that are not subject to the section, for example transitions that occur in the ordinary course of business, and the list found at subsection (j). It contains discretionary provisions for the department for ease and flexibility of administration, as well as utilization of NMLS. Subsections (n) and (o) create a streamlined acquisition of control process.

AS 06.55.404 adds a new subsection (p) regarding aggregation of interest of ownership for family members for consistency with the Model Law.

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**Sections 16 - 17** amend subsections (a) and (d) of AS 06.55.405 for consistency with the model law. AS 06.55.405 concerns record keeping obligations of licensees. Subsection (a) is amended to increase the recordkeeping time period from 3 years to 5 years and to make conforming language changes. Subsection (d) is amended to make conforming language changes.

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**Section 18** amends AS 06.55.406(a). AS 06.55.406 concerns "money laundering reports" - this heading would be retitled "Bank Secrecy Act reports" for consistency with the model law. The primary change made by this amendment is to remove the requirement that certain money laundering, record keeping, and suspicious transaction reporting requirements be filed with the Attorney General. This amendment is consistent with the model law and may reflect that compliance with federal reporting obligations is sufficient.

[MS. RENO skipped Sections 19-22.]

Sections 19 - 22 amend subsections of AS 06.55.407 for consistency with the model law.

Section 23 adds a new subsection to AS 06.55.407 concerning when department records may be made public. AS 06.55.407 concerns confidentiality, and the edits clarify what information is confidential, what information may be made public. The amendments also remove "money services" and add "transmission" to conform with the license type changes contemplated by the bill.

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**Section 24** amends AS 06.55 to add new sections to Article 4. Each of these sections are components of the model law.

**AS 06.55.408** concerns audited financials. This section requires licensees to submit an annual audited financial statement to the department and the requirements applicable to audited financial statements.

**AS 06.55.409** concerns implementation of the chapter. Subsection (a) grants the department discretion to enter into agreements with other state and federal agencies to improve efficiencies and reduce regulatory burden; to contract, hire, or purchase software to facilitate investigations; to accept licensing, examination, or investigation reports made by federal or state agencies; and to accept audit reports of independent CPAs or qualified third-party auditors. Subsection (b) grants the department broad discretion to administer, interpret, and enforce the chapter, to adopt rules and regulations, and to recover its costs through imposition and collection of fees.

**AS 06.55.410** concerns networked supervision. This section expands the department's ability to participate in multistate supervisory processes, including joint investigation.

**AS 06.55.411** concerns relationship to federal law. It provides that in the event of an inconsistency between state and federal law, the federal law governs to the extent of the inconsistency. It also allows the department to issue clarifying guidance regarding inconsistencies to assist licensees in compliance with both the federal law and applicable state law.

**AS 06.55.412** concerns notice and information requirements for a change in control of a key individual. This section is a regulatory tool similar to the requirements of AS 06.55.403 that contains the requirements and procedures applicable when licensees add or replace "key individuals." The department may disapprove a change of key individual if the department finds that the individual's experience, character, or

integrity would not be in the best interest of the public or the licensee's customers.

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CHAIR COSTELLO asked Ms. Reno to return to Section 18 and explain the reason for removing the requirement to file a report with the Alaska attorney general and instead rely on federal reporting.

MS. RENO explained that federal requirements under the Bank Secrecy Act are already in place to report suspicious activity to the US Department of Treasury and state law enforcement has access to that database. She opined that it's duplicative and burdensome to also require a report to be filed with the Office of the Attorney General.

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MS. RENO continued the sectional analysis for SB 238:

**Sections 25 - 30** make revisions to Article 5 of AS 06.55 to rename and broaden its scope from "Permissible Investments" to "Prudential Standards." In accordance with this change, two existing sections (AS 06.55.104 and AS 06.55.107) are repealed and reenacted, as revised, to fit within this new Article.

**Section 25** amends AS 06.55.501, concerning maintenance of permissible investments, for consistency with the model law. It amends AS 06.55.501(b) to allow the department to limit specific investments held by licensees due to risk concerns, with the exception of those permissible investments listed in AS 06.55.102. It amends AS 06.55.501(c) to add additional language to protect the beneficiaries of statutory trusts from actions by creditors of licensees.

**Section 26** amends AS 06.55.501 to add a new subsection (d) concerning establishment and termination of statutory trusts and related department obligations. It also adds a new subsection (e) that allows the department to allow additional permissible investments and to participate with other state regulators to identify permissible investments.

**Sections 27 - 28** amend subsections (a) and (b) of AS 06.55.502, concerning permissible investments, for consistency with the model law. Subsection (a) creates a list of permissible investments that may be amended or modified by the department. Subsection (b) is repealed and reenacted to contain a list of investments that are permissible to the extent specified within allowable aggregate values for each investment category as a component of a licensee's total investment portfolio.

The revisions to AS 06.55.502(a)(1) incorporate cash equivalents including Automated Clearing House (ACH) items in transit to licensees and payees, cash in transit via armored car, cash in smart safes, cash in licensee-owned locations, and debit card or credit card funded transmission receivables owed by any bank. The inclusion of these specific cash equivalent types is intended by CSBS to resolve disagreement between industry and states regarding derecognition of cash transactions in transit for accounting purposes. Because ACH funds are in the banking system, the model law defines cash in transit via ACH as a permissible investment, thereby ensuring that licensees are not obligated to raise additional funds to cover funds that are in the banking system.

AS 06.55.502(a) would also be amended to add paragraph (4) to include letters of credit as a permissible investment type. In conjunction with Section 29, which lists the requirements for letters of credit allowed by AS 06.55.502(a)(4), the addition of letters of credit is intended by CSBS to create a mechanism that allows states to make consumers whole without seizing assets through bankruptcy. In consideration that a licensee may operate in multiple states, the letter of credit is intended as single vehicle to allow recovery, as needed, for customers in various states.

Finally, AS 06.55.502(a) is amended to allow excess bonding as a permissible investment type.

**Section 29** amends AS 06.55.502 to add a new subsection (d) containing the requirements for permissible letters of credit.

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**Section 30** amends AS 06.55 to add new sections to Article 5. As described above, existing versions of these statutes can be found in Article 1.

**AS 06.55.505** concerns applicable forms of security (AS 06.55.104). As proposed, this section is a hybrid of the model and existing law. It adopts the model law's approach that requires licensees to hold a security bond, or with the department's approval, a deposit, in an amount equal to the licensee's average daily money transmission liability in the state. To avoid calculation of average daily money transmission liability, licensees may hold a bond in the maximum amount of \$1,000,000. The bill varies from the model law in the following ways: (1) the model law would set the maximum bond amount at \$500,000; (2) it requires that the surety bond be obtained from a surety company authorized to do business in Alaska; and (3) it requires that surety bond to be maintained for as long as the department specifies, but no less than 5 years.

**AS 06.55.506** concerns net worth (AS 06.55.107). It is a significant expansion of net worth requirements from existing law, which only requires applicants to maintain a net worth of \$25,000 in accordance with generally accepted accounting principles. This section would require licensees to maintain tangible net worth based upon tiered levels of total assets held. It requires applicants to demonstrate net worth at application and allows the department to exempt applicants or licensees from net worth requirements.

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[MS. RENO skipped Sections 31-34.]

**Section 31** amends AS 06.55.601 for consistency with the model law. These changes are limited to deletion of unnecessary language and insertion of new terms, such as "key individual" and replacement of "transmission" for "services."

**Section 32** amends AS 06.55.601 by adding a new subsection allowing a licensee to apply for relief from suspension or revocation of a license.

**Section 33** amends AS 06.55.602 concerning suspension and revocation of authorized delegates for consistency with the model law. These edits are limited to replacing "money services" with "money transmission."

**Section 34** amends AS 06.55.602 by adding a new subsection allowing an authorized delegate to apply for relief from a suspension or revocation of designation as an authorized delegate.

[2:35:45 PM](#)

**Sections 35 - 37** amend subsections of AS 06.55.603 for consistency with the model law. These edits are limited to conforming language changes such as deletion of "money services" and insertion of "transmission."

**Section 38** amends AS 06.55.605 concerning civil penalties to allow the department to assess its costs and expenses for investigation and prosecution, including attorney's fees, as part of the civil penalty assessment allowed under this section.

Section 39 amends AS 06.55.606 concerning criminal penalties for consistency with the model law. These amendments are limited to insertion of the word "such" and deletion of unnecessary language.

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MS. RENO described Sections 40-41 as particularly important to streamline licensing for both staff and industry.

Sections 40 - 41 amend subsections of AS 06.55.607 to remove citations to AS 06.55.201, which is repealed

pursuant to Section 64. Existing AS 06.55.201 contains the currency exchange license requirement. This license type has been eliminated in the bill in favor of one license type, for which currency exchange is a permissible activity.

**Section 42** amends AS 06.55.702(a) concerning hearings for consistency with the model law. These amendments are limited to deletion of "money services" and a citation to AS 06.55.702(b), which is repealed by Section 64 of the bill.

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**Section 43** amends AS 06.55.802 for consistency with the model law. This section extensively revises existing AS 06.55.802 concerning licensing "exclusions." In addition to renaming the section to "Exemptions," proposed Section 43 would add six new exemption types and would allow the department to add additional exemptions if "in the public interest" and if regulation is unnecessary for the purposes of the chapter. Some of the exemptions are added to allow businesses that provide money transmission as an ancillary service are not required to hold licenses (e.g. insurance companies, title companies, and attorneys). Others identify employees, third-party services providers, agents of payees, and intermediaries as exempt in certain circumstances. Though the list of exemption is lengthy, CSBS recommends consistent adoption of exemptions so that compliance regimes are consistent from state-to-state.

[MS. RENO skipped Sections 44-46.]

**Section 44** amends AS 06.55 by adding a new section AS 06.55.803 allowing the department to require a person who claims an exemption to provide information and documentation in support thereof.

**Section 45** amends AS 06.55.810 concerning required notices. The amendments require licensees and authorized delegates to provide customers with notices of how to file a complaint and allows the department to establish the format and content requirements for notices.

**Section 46** amends AS 06.55.810 by adding a new subsection that requires licensees and authorized delegates include on a receipt or through disclosure on the licensee's website or mobile application, the name and phone number of the department and a statement that customers may contact the department with questions or complaints about the licensee or authorized delegate's services.

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**Section 47** repeals and reenacts AS 06.55.830, concerning receipts, for consistency with the model law. Subsections (a) - (c) contain content and format requirements for transaction receipts and define "receipt" for purposes of the section. Receipts are required to be in English and any other language principally used by the licensee or authorized delegate to negotiate the transaction conducted. Subsection (d) contains exceptions to the receipt requirement.

**Section 48** amends AS 06.55 to add a new section, AS 06.55.835, concerning timely transmission. This section is new to the model law and requires licensees to forward money received for transmission in accordance with the agreement between the licensee and sender unless the licensee has a reasonable basis to believe the sender may be a victim of fraud or other crime. The licensee is also required to respond to inquiries from the sender with the reason for the failure to forward money unless doing so would violate a state or federal law.

**Section 49** repeals and reenacts AS 06.55.840 concerning refunds to contain the language of the model law.

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**Section 50** amends AS 06.55 to add a new section AS 06.55.845 concerning required disclosures for payroll processing services. Subsection (a) contains disclosure requirements and subsection (b) provides that the disclosure requirements do not apply in certain circumstances.

**Sections 53 - 60** amend definitions found in AS 06.55.990 for consistency with the model law. These

changes include incorporation of the words "in this state" to ensure AS 06.55 protects Alaskan consumers. Revisions are made to align the language of AS 06.55 with the model law, including an exception for loyalty reward cards, amends the definition of control to at least 10% of ownership, and the amended definition of "stored value."

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**Section 61** amends AS 06.55.990 to add definitions for terms introduced by the model law. These terms include "acting in concert," "average daily money transmission liability," "Bank Secrecy Act," "closed loop stored value," "control," "eligible rating," "eligible rating service," "in this state," "key individual," "passive investor," "payroll processing services," and "tangible net worth."

**Section 62** amends AS 06.55.995 to refer to the model law as the Alaska Uniform Money Transmission Modernization Act instead of the Alaska Uniform Money Services Act.

**Section 63** repeals a number of sections of AS 06.55. As described above, AS 06.55.104 and AS 06.55.107 are repealed and reenacted in Article 5 concerning prudential standards. All of the statutes in existing Article 2 concerning currency exchange licenses are repealed, and currency exchange was added to the definition of "money transmission." Section 64 also repeals AS 06.55.890, which contains definitions applicable to AS 06.55.820 - 06.55.840; these definitions are no longer necessary following amendment to these sections. Section 64 repeals definitions for "currency exchange" and "currency exchange licensee" as no longer necessary. It also repeals the definitions for "executive officer," "mobile location," "money services," "money services license," "money services licensee," and "outstanding."

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**Sections 64 - 68** are transitional provisions amending uncodified law to avoid interference with existing contracts, to allow a transition period for holders of current money services licenses, to add a transition period for payroll processors, to allow adoption of

transitional regulations by the department, and to instruct the revisor of statutes to amend certain headings.

**Section 69** provides for an immediate effective date for Section 67, which would allow the department to begin the regulation promulgation process.

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**Section 70** provides for an effective date of January 1, 2023.

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CHAIR COSTELLO opened public testimony on SB 238; finding none, she closed public testimony.

[2:42:42 PM](#)

At ease

[2:43:20 PM](#)

CHAIR COSTELLO reconvened the meeting.

[2:43:33 PM](#)

THOR STACEY, Alaska State Director, National Federation of Independent Business (NFIB), Juneau, Alaska, stated that NFIB does not have a vetted position on SB 238. He highlighted that his counterparts at NFIB indicated that the efforts to regulate cryptocurrency were gaining traction across the country for many of the reasons raised today. He stated that the biggest problem is understanding where cryptocurrency is going or the potential to use it counter to national interests. He highlighted that the secondary problem is related to consumer protection. For instance, if a money transmitter loses a person's cryptocurrency, the person would have no recourse. He noted that NFIB considers matters from a small business perspective. He indicated that some small businesses are money transmitters or consumers, so they can be defrauded by lost cryptocurrency by a money transmitter service. Thus, NFIB believes the bill was requested by large money-transmitting interests, so it raises a cautionary flag. Thus far, he was unaware that anyone from the small business community had come forward to NFIB or any regulatory agency asking for cryptocurrency regulation.

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MR. STACEY reported that the state figures show a rapidly expanding sector from 2019 to 2021 going from \$31 million to \$2.3 billion of declared cryptocurrency transactions. He

recalled testimony from the state regulator identified it as a caution, but it is a growing sector of the economy that brings potential opportunities. NFIB does not want small businesses to be left out.

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MR. STACEY expressed concern that the bill has other reforms for all currencies, including fiat currency, so it was not limited to cryptocurrency.

MR. STACY referred to the proposed changes to AS 06.55.205 in Section 7 that provides an exemption for a \$5,000 threshold. He asked for the rationale for the \$5,000 threshold. He wondered what would happen to a smaller business if that threshold was exceeded. He stated that AS 06.55.208 would require virtual currency businesses with control over virtual currency to maintain an amount of each type of virtual currency sufficient to satisfy aggregate entitlements. He offered his view that this means that if a business was transmitting one bitcoin, it must have one bitcoin in reserve. He wondered if there might be some rolling average or another approach to take, especially because many types of cryptocurrency exist so it might be an onerous barrier for a smaller business.

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MR. STACEY noted that NFIB had concerns about other sections, but Section 30 captured some of NFIB's concerns about regulatory barriers. He highlighted concern about increasing the \$25,000 net worth to a tiered structure based on transactions because it could be hard on small businesses. He noted that some family-run businesses, especially immigrant families or cruise ship crewmembers, send money to their families in other countries. He commented that those communities were typically served by a small-money transmitter business they trust. He wondered if consumer protection and transparency were the goals, why would the net worth be raised if a lower net-worth segment in the money transmitter industry was not identified as problematic. Some provisions appear to raise barriers and potentially cut smaller businesses out of the rapidly-growing sector.

MR. STACEY indicated that NFIB does not oppose licensure but does not want fiat or cryptocurrency money transmitters supporting interests counter to national security interests. He commented that the bill was lengthy and that bill does more than add cryptocurrency to the money transmitter license.

[2:50:41 PM](#)

CHAIR COSTELLO offered her view that Section 30 would allow the department to exempt applicants from those requirements.

MR. STACEY responded that the testimony the department provided gave specific instances for the exemption, including title agencies and certain kinds of professional services that may hold funds in escrow for a short time. He offered his view that the exemptions in Section 30 relate to small businesses as money-transfer transmitters but would apply to professional service providers that hold money in escrow.

[2:51:35 PM](#)

SENATOR MICCICHE asked for the basis for his concern because the Division of Banking and Securities brought the bill forward.

MR. STACEY said his conversations with the state led him to understand that a national trade association, the Money Transmitter Regulators Association (MTRA), approached various states to introduce regulatory bills such as SB 238. Still, the key proponents behind this effort were the larger money transmitter companies, including Pay Pal, Zelle, and Venmo.

[2:53:00 PM](#)

CHAIR COSTELLO asked Mr. Schmidt to respond to the question regarding the exemptions in Section 30.

[2:53:27 PM](#)

MR. SCHMIDT responded that nothing that Mr. Stacey mentioned raised a red flag, and the division certainly wants to assist small businesses. He acknowledged that he might view the increased transmission of cryptocurrency as alarming, but he could see businesses viewing that growth as an opportunity. He said he was open to a conversation about the appropriate threshold in Alaska. The Conference of State Bank Supervisors (CSBS) promulgated the model bill, while working with money transmitters. He acknowledged that it was accurate to say it was the larger money transmitters who were at the table or part of the discussion between the CSBS and the industry. He also agreed with Mr. Stacey's comment that the smaller money transmitters were specializing in specific communities within Alaska where English was not their first language.

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CHAIR COSTELLO asked whether the department could exempt certain applicants from the net worth requirements.

MR. SCHMIDT deferred to Ms. Reno.

[2:55:33 PM](#)

MS. RENO referred to page 36, lines 7-8, to Sec. 06.55.506 (c), "The department may exempt any applicant or licensee, in part or in whole, from the requirements of this section."

CHAIR COSTELLO noted that Mr. Schmidt gave specific examples of who might be exempted, and Mr. Stacey mentioned that small businesses might not meet the threshold. She asked whether the bill was drafted to allow the division to exempt certain small businesses.

MR. SCHMIDT answered yes.

MS. RENO agreed.

[2:56:26 PM](#)

At ease

[2:56:43 PM](#)

CHAIR COSTELLO reconvened the meeting.

[2:56:48 PM](#)

SENATOR MICCICHE moved to report SB 238, work order 32-GS2312\A, from committee with individual recommendations and attached fiscal note(s).

CHAIR COSTELLO found no objection, and SB 238 was reported from the Senate Labor and Commerce Standing Committee.

SENATOR MICCICHE noted that the committee had reviewed what would typically be under the purview of the finance committee, so he was comfortable to have it further reviewed by the next committee of referral, the Senate Finance Committee.

SENATOR STEVENS agreed with Senator Micciche that most of the issues that needed to be addressed were ones the Senate Finance Committee was better equipped to handle.

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There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 2:58 p.m.