

HB

180

<TARGET><BILL>HB 180</BILL><SUBJECT>HB
180</SUBJECT><COMM>HL&C30</COMM></TARGET>

ALASKA STATE LEGISLATURE

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House Community & Regional
Affairs Committee
Co-Chair

Education


Fisheries

Joint Armed Services

Judiciary
Vice-Chair

REPRESENTATIVE ZACH FANSLER DISTRICT 38

TO: Representative Sam Kito III, Chair
House Labor and Commerce Committee

FROM: Representative Zach Fansler 

DATE: 1-17-18

RE: Hearing Request for House Bill 180

I would like to request a hearing of HB 180 in the House Labor and Commerce Committee at your earliest convenience. Attached is a bill packet that contains the following:

HB 180 Version A
HB 180 Sponsor Statement
HB 180 Supporting Documents
HB 180 Additional Documents

Staff contact in my office for this bill will be Mary Aparezuk who can be reached at (907) 465- 6576 or mary.aparezuk@akleg.gov.

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REPRESENTATIVE ZACH FANSLER DISTRICT 38

TO: Representative Sam Kito III, Chair
House Labor and Commerce Committee

FROM: Representative Zach Fansler 

DATE: 5-2-17

RE: Hearing Request for House Bill 180

I would like to request a hearing of HB 180 in the House Labor and Commerce Committee at your earliest convenience. Attached is a bill packet that contains the following:

HB 180 Version A
HB 180 Sponsor Statement
HB 180 Supporting Documents
HB 180 Additional Documents

Staff contact in my office for this bill will be Mary Aparezuk Schlosser who can be reached at (907) 465-6576 or mary.schlosser@akleg.gov.

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REPRESENTATIVE ZACH FANSLER DISTRICT 38

Sponsor Statement House Bill 180 Alaska Money Services Act

“An Act relating to money transmission and currency exchange businesses...”

HB180 updates the State of Alaska money service business laws in AS 06.55 to recognize and support new means of money transmission, including the use of other values that substitute for money. Additionally, the proposed revisions would eliminate redundant or outdated references and practices. Due to the number of changes, the Alaska Uniform Money Services Act would be renamed the Alaska Money Services Act.

Currently, AS 06.55 regulates money service businesses, money transmitters, issuers of traveler’s checks, money orders, or stored-value (prepaid cards). Furthermore this statute covers sellers and redeemers of traveler’s checks, money orders or stored-value, and currency exchangers.

This bill provides for the use of the Nationwide Multistate Licensing System and Registry (NMLS). The NMLS allows states to share information about licensed money services businesses activity, and its use eases the application process for a money service business, both for licensing and subsequent filings, which allows the Department of Commerce, Community, and Economic Development (DCCED) to more easily regulate licensees nationwide. HB 180 also provides straightforward access to reloading of prepaid cards to individuals in the state that use these services.

Additionally, the proposed revisions would allow for more effective examinations of money service businesses doing business in the state. DCCED would be able to respond quicker to complaints filed by the Alaska public against money services businesses by eliminating a lengthy pre-exam notification. The bill would establish greater bonding limits for licensees. Additionally, the language would clarify that all persons, licensed or not, that engage in money services are subject to daily penalties for violations of the Alaska Money Services Act. This would ensure that the state holds violators accountable and increases protections for consumers.

Since its adoption in 2007, the money services business world has changed dramatically to include new technology and advanced means of transmitting funds between parties, including virtual currencies such as bitcoin. The proposed revisions would provide a new definition for “money transmission” that includes the transmission of other values that substitute for money. This broad definition would allow the department to continue its regulation of emerging payment systems and respond to potential violations of state statute quickly.

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REPRESENTATIVE ZACH FANSLER DISTRICT 38

House Bill 180-A Alaska Money Services Act Brief Sectional Analysis

This analysis focuses on the major changes proposed in the bill.
Money Transmission Licenses

Sections 1-2. AS 06.55.101. License required. Clarifies a license or exemption is needed to engage in money transmission business and a licensee must register with a designated national registry (streamlines the licensing process).

Section 3. AS 06.55.102. Application for license. Amends current provisions to move the detailed application information to regulations and adds requirements for criminal and civil background checks and authority to obtain a credit report for control person,

Section 4-7. AS 06.55.104. Security. Amends the current provision to require a surety bond in the amount required by the department up to \$1,000,000 issued by a company authorized to do business in the State of Alaska and allows the department to issue an order if the licensee fails to maintain a bond.

Section 8-11. AS 06.55.105. Issuance of license. Amends the current provisions to clarify the department may be reimbursed for any applicant investigation, may exclude any applicant, employee or independent contractor that is listed on certain designated lists, establishes December 31 as the license expiration/renewal date, provides a 120 day period for the department to approve or deny the application and retains the 30 day appeal period for a denial.

Section 12. AS 60.55.106. Renewal of license. Repeals and reenacts the current provision to move the detailed application information to regulations, requires the applicant report changes in previously provided information and any additional information requested by the department, provides a 60 day time period for the department to approve or deny the application and gives an applicant whose renewal is denied 30 days to request a hearing.

Section 13. AS 06.55.108. Annual assessment fee and annual report. Replaces the nominal, static annual renewal fee with a volume-based annual assessment fee, requires an annual report be submitted to the department, and assesses a fee for late filings or payment.

Currency Exchange Licenses

Sections 14-15. AS 06.55.201. License required. Clarifies a license or exemption is needed to engage in currency exchange and removes the unnecessary reference to an authorized delegate of a licensed money transmitter. Requires registration with a designated national registry (streamlines the licensing process).

Section 16. AS 06.55.202. Application for currency exchange license. Repeals and reenacts current provision to move the detailed application information to regulations and adds requirements for criminal and civil background checks and authority to obtain a credit report for each control person.

Sections 17-20. AS 06.55.203. Issuance of license. Amends the current provisions to clarify the department may be reimbursed for any applicant investigation, may exclude any applicant, employee or independent contractor that is listed on certain designated lists, establishes December 31 as the license expiration/renewal date, provides a 120 day period for the department to approve or deny the application and retains the 30 day appeal period for a denial.

Section 21. AS 06.55.204. Renewal of license. Repeals and reenacts the current provision to move the detailed application information to regulations, requires applicant report changes in previously provided information and any additional information requested by the department, provides a 60 day time period for the department to approve or deny the application and gives an applicant whose renewal is denied 30 days to request a hearing.

Section 22. AS 06.55.206. Security. (New) Requires a surety bond in an amount required by the department up to \$1,000,000 issued by a company authorized to do business in Alaska and allows the department to issue an order if the licensee fails to maintain a bond. Allows either a claimant against the licensee or the department to file an action on the bond and requires the bond to cover claims for at least five years after a currency exchange licensee no longer provides money services in Alaska.

AS 06.55.207. Annual assessment fee and annual report. (New) Replaces the nominal, static annual renewal fee with a volume-based annual assessment fee, requires an annual report be submitted to the department, and assesses a fee for late filings or payment.

Authorized Delegates

Sections 23-24. AS 06.55.301. Relationship between licensee and authorized delegate. Expands statutory references for scope of permissible activity of authorized delegate.

Section 25. AS 06.55.304. Limited authorization of subdelegate. (New) Allows a licensee to contract with another licensee to use another licensee's existing authorized delegate as a subdelegate to reload funds onto open-loop stored-value cards (prepaid cards) and requires the licensee to maintain all contracts related to the use of subdelegates as part of its books and records.

Examinations, Reports, Records

Section 26. AS 06.55.401. Authority to conduct examinations. Repeals and reenacts the current provisions for authority to examine, interview, or investigate; removes the 45-day advance notice

requirement and specifically authorizes joint examination and investigations with other regulators (language currently found in AS 06.55.402). Allows department to gather evidence relevant for a hearing or investigation and allows reimbursement of examination or investigation costs.

Section 27. AS 06.55.402. Cooperation; consultation. Amends current provisions which allow cooperation and consultation with other state and federal regulators and removes the joint examination language now proposed in AS 06.55.401.

Sections 28-30. AS 06.55.403. Reports. Removes the limitation of reporting only information about delegates and locations in the quarterly report and now includes relevant information about the licensee. Requires the licensee to notify the department within one day of most petition filings, lawsuits, bond cancellation, criminal charges, convictions against the licensee or authorized. Changes “executive officer” to “officer” for notification of a charge against or conviction of a person. Allows the department to assess a late fee or other consequence for failure to report as required.

Sections 31-32. AS 06.55.404. Change of control. Requires a 30-day advance notice of a change of control be submitted to the department along with any required fee. Removes the automatic approval of a change of control request if the department does not approve or deny the change of control within the 120 day time period.

Sections 33-34. AS 06.55.405. Records. Adds currency transaction reports and suspicious activity reports to the types of records to be retained. Extends the retention period from three to five years to align with federal record keeping laws and requires the records to be provided in a format established by the department.

Section 35. AS 06.55.406. Money laundering reports. Amended to align reporting requirements with federal law.

Sections 36-37. AS 06.55.407. Confidentiality. Allows the department to share information with state or federal agencies without giving prior notice to a licensee and expands the list of licensee information that may be publicly disclosed to include the address and name of contact individuals and authorized delegates.

Permissible Investments

Sections 38-39. AS 06.55.501. Maintenance of permissible investments. Clarifies that permissible investment market value calculations including the aggregate amount of outstanding payment instruments and stored-value obligations are subject to limitations imposed by the department. A permissible investment is held in trust for the benefit of persons owed an obligation by the money service business.

Enforcement

Section 40. AS 06.55.601. Suspension and revocation of licensees; receivership. Clarifies that the department may issue an order against a licensee if: (1) either the licensee or an authorized delegate is convicted of or violates certain provisions; (2) a fact or condition that may have been grounds for denial was not disclosed with the license application; (3) the licensee engaged in false, misleading, deceptive advertising, fails to timely pay a judgment or knowingly made a material misstatement or withheld material information. Amended to include a currency exchange licensee and expand criteria for determining whether a licensee is engaging in an unsafe or unsound practice to include the magnitude of potential loss as well as magnitude of the loss, gravity of the violation of this chapter, a regulation, an order, or action

against the licensee by this state, another state, or the federal government, and previous conduct of the person involved.

Sections 41. AS 06.55.602. Suspension and revocation of authorized delegates and subdelegates. Amended to add “subdelegate” and expands the department’s ability to issue, suspend, or revoke the designation of an authorized delegate or subdelegate.

Section 42-45. AS 06.55.603. Administrative orders. Amended to change “cease and desist” to “administrative” order. Expands the reasons an administrative order may be issued. Allows a person to petition the superior court for a judicial order to modify the order pending completion of an administrative proceeding.

Sections 46-49. AS 06.55.607. Unlicensed persons. Amended to add subdelegate to unlicensed activity provisions and establishes an additional monetary penalty for unlicensed activity.

Administrative Procedures

Section 50. AS 06.55.702. Hearings. Amends by deleting reference to (b) since the hearing provision does not apply if the licensee fails to complete the renewal application requirements.

Miscellaneous Provisions

Section 51. AS 06.55.802. Exemptions. Amended to include insurance companies, title insurance companies, escrow agents, and attorneys as exempt from the provisions of this chapter provided the money transmission or currency exchange is ancillary to its typical services.

Section 52. AS 06.55.810. Notices required. Amended to clarify that a money services licensee must provide the required notice to customers at locations where no authorized delegate or subdelegate is designated to provide services; adds the requirement of a subdelegate to provide customer complaint resolution information at locations where they provide money services (currently only lists “authorized delegate”); and allows the department to establish the content of the required notices.

Section 53. AS 06.55.820. Transmission, receipt, and refund. Repealed and reenacted to require compliance with the Federal Remittance Transfer Rule for transmission, receipt, refunds, and any requirements established by the department.

Section 54. Adds new provisions:

AS 06.55.855. Virtual Currency. Describes how references to virtual currency are construed under this chapter.

AS 06.55.860. Compliance with federal requirements. Requires compliance with the listed federal laws related to money services businesses.

AS 06.55.870. Escheatment of property. Requires compliance with unclaimed property laws in Alaska.

AS 06.55.880. Application to Internet activities. Clarifies internet money services activity is regulated by this chapter.

AS 06.55.885. Open-loop stored-value reloads. Provides for reloads of open-looped stored-value cards by using Internet websites.

General Provisions.

Section 55. AS 06.55.900. Administration. Authorizes use of the Nationwide Multistate Licensing System and Registry for a variety of licensing and information purposes.

AS 06.55.910. Regulations. Authorizes the department to administer, interpret, and issue regulations pertaining to this chapter.

Section 56. AS 06.55.990(3). Amends the definition of “control” to lower ownership or voting power from 25% to 10% and adds the requirement of aggregating ownership interest for immediate family members when determining controlling interest in a business to include a spouse, parent, or child; and further clarifies the definition of “control”.

Section 57. AS 06.55.990(5). Amends “currency exchange license” to reflect updated citation.

Section 58. AS 06.55.990(15). Repeals and reenacts “money transmission” to include currency, funds, or other value that substitutes for currency; selling, issuing, or acting as an intermediary for open-loop stored-value devices and payment instruments, an informal value transfer system and virtual currency business activities to the definition.

Section 59. AS 06.55.990(16). Amends “money transmission license” to reflect updated citation.

Section 60. AS 06.55.990(18). Repeals and reenacts “outstanding” to expand the definition in the context of payment instruments, stored-value obligations and money transmission.

Section 61. AS 06.55.990(19). Amends “payment instrument” to include an electronic or written instrument.

Section 62. AS 06.55.990(20). Amends “person” to include a governmental agency and a governmental instrumentality.

Section 63. AS 06.55.990(23). Amends “stored-value” by clarifying that it is prefunded and for which value is reduced on each use; access to funds may be retrieved or transferred in the future through an electronic device or vehicle; and it does not include an electronic record that is primarily intended to be redeemable only for goods or services from a specified merchant or set of affiliated merchants.

Section 64. AS 06.55.990(24). Amends “unsafe or unsound practice” to include all money services licensees and a subdelegate (currently limited to a money transmission licensee and authorized delegate).

Section 65. AS 06.55.990. Adds the following definitions. (25) applicant, (26) currency, (27) fiat currency, (28) funds, (29) medium of exchange, (30) money laundering, (31) officer, (32) open-loop stored-value, (33) payment system, (34) registry, (35) subdelegate and (36) virtual currency.

Section 66. AS 06.55.995. Short title. Removes “Uniform” from the title of the Act.

Sections 67-68. Adds provisions relating to background checks in AS 12.62.400.

Section 69. Enumerates provisions repealed.

Section 70. Provides for transition regulations.

Section 71. Revisor's Instructions.

Section 72. Section 70 takes effect immediately.

Section 73. Effective date is July 1, 2017, except as provided in Section 72.

A photograph of a fishing boat on a sea covered in ice floes. The boat is dark and has a mast with rigging. The ice floes are numerous and vary in size, covering the entire surface of the water. The sky is a pale, hazy blue.

**ALASKA MONEY SERVICES ACT
HB 180**

House Labor and Commerce Committee

May, 2017

What is a Money Services Business (MSB)?

- ▶ Currency Exchange/Money Transmission functions:
- ▶ Currency exchange means the receipt of revenues from the exchange of money of one government for money of another government.
 - US dollars to Euros
- ▶ Money transmission means selling or issuing payment instruments or stored value, or receiving money or monetary value for transmission.
 - Sending money via Western Union from Alaska to California
 - Moving money from a deposit account to a loadable card to use or give to another person

What does it do for current MSBs?

- ▶ Simplifies the licensing process by:
 - Requiring use of the Nationwide Multistate System and Registry (NMLS) for filing documents and paying fees; the NMLS is currently used by over 90% of MSBs in other states.
 - Replaces the net worth requirement with a surety bond requirement that can be adjusted based on the risk presented by the licensee's business model and focus.
 - Allows annual assessment fees to cover periodic examination fees and ongoing administrative costs associated with regulating the industry to be set by regulation.

Updates the Money Services Act to:

29
%

- ▶ Expand the definitions of “money transmission” to include virtual currency and “payment instrument” to include an electronic check or electronic instrument to capture changing technology.
- Incorporate alternative payment systems and instruments.
- Allow licensees to contract with a delegate who may then use their network of delegates (subdelegates) to reload funds onto cards without having a separate contract between a licensee and subdelegate.
- Removes the out-of-state business advantage that allows applicants licensed in another state to submit minimal information and pay only half the fee an entity headquartered in Alaska pays.

Enhances consumer protection

- Adds a background check component for all control persons
 - Requires licensees to comply with federal law
 - Increases the record retention schedule from three to five years
 - Removes advance exam notification requirement and allows joint examinations and investigations with other regulators
 - Updates enforcement provisions
- ▶ And, for businesses that aren't really in the Money Services Business
- Exempts an insurance company, title company and escrow agent or attorney that engages in ancillary money services business as part of their lawfully conducted business.

“Stored Value” cards

This bill affects prepaid cards (stored value) that are **both** open loop and reloadable.

Updated definitions of “open loop” and “stored value”:

- ▶ Monetary value is prefunded and reduced at each use
- ▶ Includes an electronic device or vehicle (i.e. card code)
- ▶ Redeemable at multiple, unaffiliated merchants or ATMs
- ▶ Does not include an electronic record that is primarily intended to be redeemable only for goods or services from a specific merchant

What is an open loop, stored value card?

Example:

Reloadable Card?

Requires an MSB licensee or delegate to issue or sell?

**Olive Garden
\$50 Gift Card**

No

No

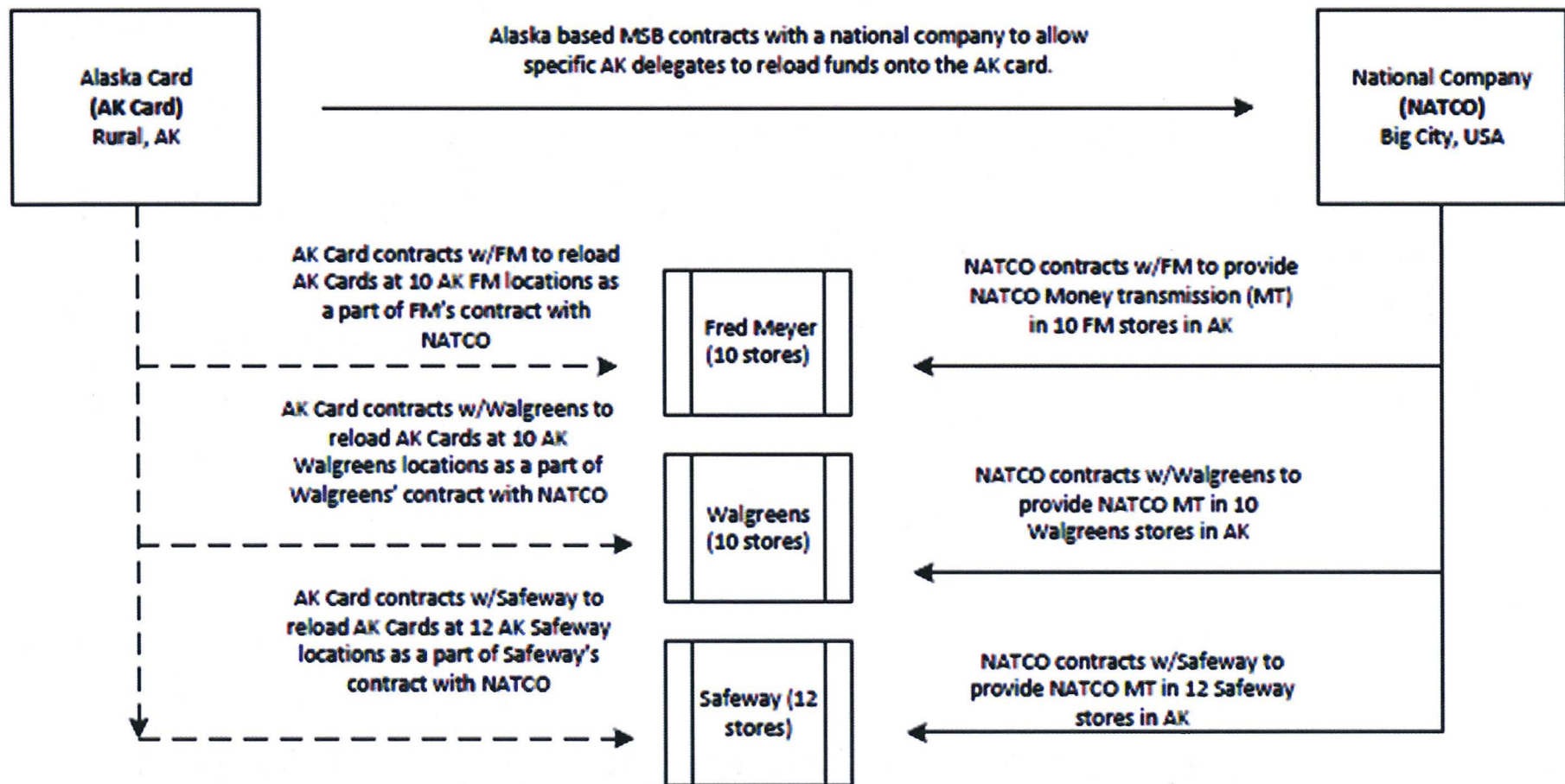
VISA/Green Dot

Yes

Yes

The Current Treatment of Subdelegates

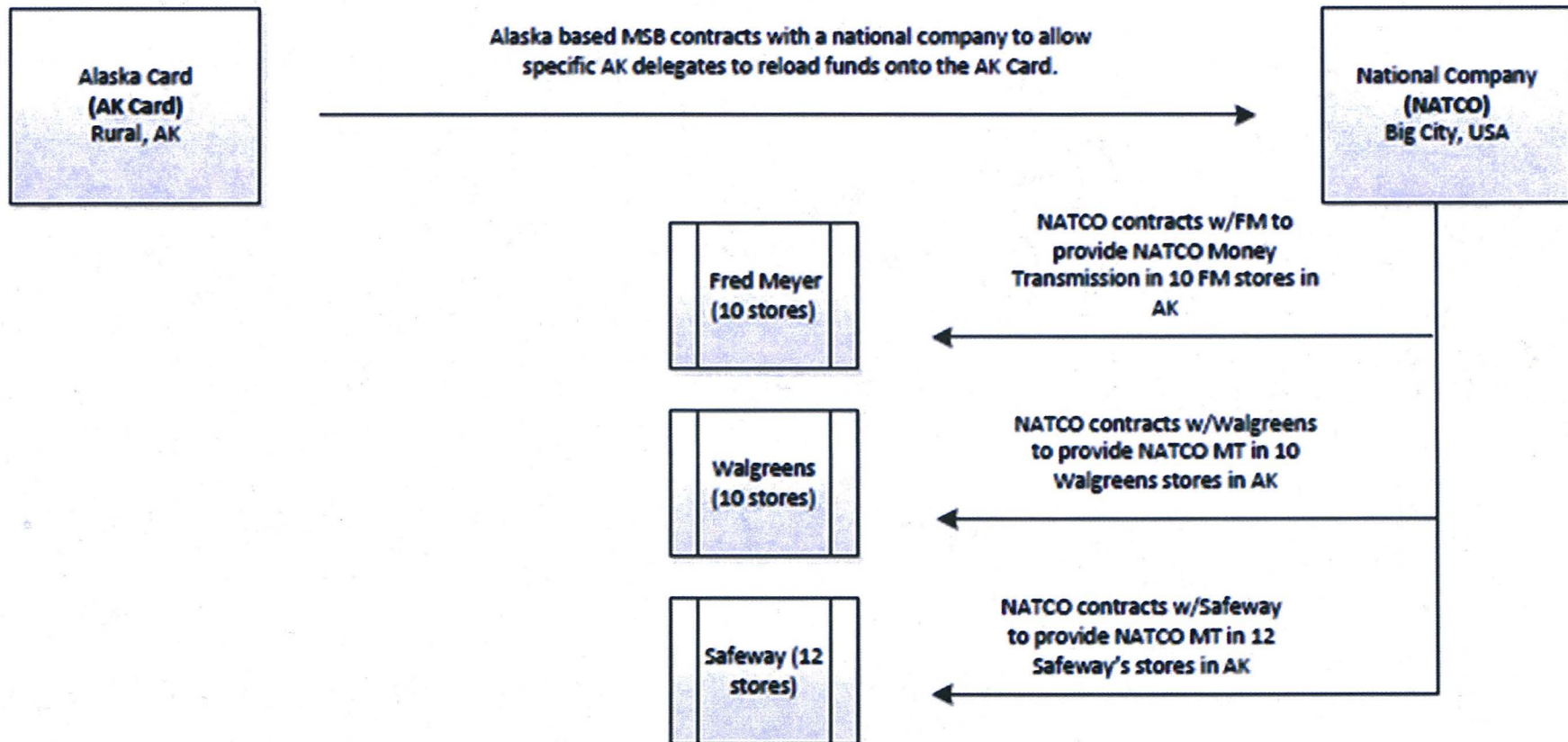
Current Process



The Proposed Treatment of Subdelegates

29
%

Proposed Process



Questions?





THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

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and Economic Development

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May 15, 2017

The Honorable Representative Sam Kito
Chair, House Labor & Commerce
State Capitol Room 124
Juneau, AK 99801

Dear Representative Kito,

During the House Labor and Commerce hearing held May 8, 2017 regarding House Bill 180, the committee requested follow up on several items. This letter is intended to address those questions.

What are the federal rules on fees for prepaid, rechargeable cards?

Any restrictions, limitations, and required fee disclosures are contained in the Electronic Fund Transfer Act (regulation E), the Truth in Lending Act (Regulation Z) and the Prepaid Accounts Final Rule issued by the Consumer Financial Protection Bureau. They are provided as an attachment.

Does the State have any jurisdiction to regulate fees on rechargeable cards?

Any restrictions or limitations on fees and fee disclosures fall under the federal laws listed above.

If you have any further questions or concerns, please contact Micaela Fowler, Special Assistant, at 907-465-2503.

Best regards,

A handwritten signature in cursive script that reads "Kevin Anselm".

Kevin Anselm
Director