

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

February 27, 2015

1:31 p.m.

**MEMBERS PRESENT**

Senator Lesil McGuire, Chair  
Senator John Coghill, Vice Chair  
Senator Mia Costello  
Senator Peter Micciche

**MEMBERS ABSENT**

Senator Bill Wielechowski

**COMMITTEE CALENDAR**

SENATE BILL NO. 51

"An Act relating to the Uniform Interstate Family Support Act, including jurisdiction by tribunals of the state, registration and proceedings related to support orders from other state tribunals, foreign support orders, foreign tribunals, and certain persons residing in foreign countries; relating to determination of parentage of a child; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 49

"An Act allowing appropriations to the civil legal services fund from court filing fees."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 51

SHORT TITLE: UNIFORM INTER.CHILD SUPPORT;PARENTAGE

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/11/15	(S)	READ THE FIRST TIME - REFERRALS
02/11/15	(S)	JUD, FIN
02/18/15	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/18/15	(S)	<Above Item Removed from Agenda>

02/18/15 (S) MINUTE(JUD)  
02/27/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 49  
SHORT TITLE: CIVIL LEGAL SERVICES FUND  
SPONSOR(s): MCGUIRE

02/11/15 (S) READ THE FIRST TIME - REFERRALS  
02/11/15 (S) JUD, FIN  
02/27/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

CAROL BEECHER, Director  
Child Support Services  
Administrative Services  
Department of Revenue (DOR)  
Anchorage, Alaska

**POSITION STATEMENT:** Introduced SB 51 on behalf of the administration.

STACY STEINBERG, Chief Assistant Attorney General  
Civil Division  
Collections and Support Section  
Department of Law (DOL)  
Anchorage, Alaska

**POSITION STATEMENT:** Explained that 42 U.S. Code 666(f) is the federal law that says each state must pass and have in effect UIFSA 1996.

NIKOLE NELSON, Executive Director  
Alaska Legal Services Corporation (ALSC)  
Juneau, Alaska

**POSITION STATEMENT:**

ANDREW GAMBLE, Jr, representing himself  
Juneau, Alaska

**POSITION STATEMENT:** Said he's a Vietnam veteran speaking in support of SB 49.

GERALD "SANDY" ROBERTS, representing himself  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 49.

ROBBIN SMITH, representing herself  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 49.

MARIE DARLIN, representative  
AARP Alaska  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 49.

DENISE DANIELLO, Executive Director  
Alaska Commission on Aging  
Division of Senior and Disabilities Services  
Department of Health and Social Services (DHSS)  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 49.

NANCY MEADE, General Counsel  
Office of the Administrative Director  
Administrative Staff  
Alaska Court System  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions related to SB 49.

#### **ACTION NARRATIVE**

[1:31:43 PM](#)

**CHAIR LESIL MCGUIRE** called the Senate Judiciary Standing Committee meeting to order at 1:31 p.m. Present at the call to order were Senators Costello, Coghill, and Chair McGuire.

#### **SB 51-UNIFORM INTER.CHILD SUPPORT;PARENTAGE**

[1:31:59 PM](#)

**CHAIR MCGUIRE** announced the consideration of SB 51. "An Act relating to the Uniform Interstate Family Support Act, including jurisdiction by tribunals of the state, registration and proceedings related to support orders from other state tribunals, foreign support orders, foreign tribunals, and certain persons residing in foreign countries; relating to determination of parentage of a child; and providing for an effective date."

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**CAROL BEECHER**, Director, Child Support Services, Administrative Services, Department of Revenue (DOR), introduced SB 51 on behalf of the administration. She explained that the bill amends the Uniform Interstate Family Support Act (UIFSA), which Alaska passed into law in 1996. The law was amended in 2006 to add definitions and clarifications. The 2008 amendments (UIFSA

2008), which are incorporated in SB 51. UIFSA 2008 will allow U.S. children to receive child support when one party resides in a different country. She noted that many countries do not process child support orders in the absence of a treaty obligation.

To provide some context for the bill, she explained that Alaska's child support program is authorized under Title IV-D of the Social Security Act and is matched with 66 percent federal funds and 34 percent state funds. In FY2015 the federal match was \$19 million. In 2014 the Division of Child Support Services collected approximately \$112 million; 90 percent goes directly to families and 10 percent goes to reimburse federal and state government for welfare and foster care assistance.

The Uniform Interstate Family Support Act was written by the Uniform Law Commission to provide a framework for dealing with the enforcement of orders between states. Alaska passed UIFSA into law in 1996 and all other jurisdictions had passed it by 1998. In 2007, the U.S. signed the Hague Convention ("Convention") on the international recovery of child support and other forms of family maintenance. In 2008, the Uniform Law Commission amended UIFSA to incorporate the changes mandated by the Convention. In September 2014, Public Law 113-183, the Preventing Sex Trafficking and Strengthening Families Act, was signed into law. It requires that IV-D child support programs pass UIFSA 2008 into law by July 1, 2015. Federal funding for the IV-D Child Support Program is a condition of passage. To ensure uniformity, the language of UIFSA 2008 may not be amended. Once passed, the new section will not go into effect until all jurisdictions have passed it. The treaty will then go back through the congressional process for ratification and thereafter go through the process in the Netherlands.

Currently, 12 states have enacted UIFSA 2008 and 20 states have introduced legislation. The remaining states are in the process of drafting the bills.

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SENATOR COSTELLO asked by what authority the federal government can remove funding if the state doesn't pass UIFSA 2008.

STACY STEINBERG, Chief Assistant Attorney General, Civil Division, Collections and Support Section, Department of Law (DOL), explained that 42 U.S. Code 666(f) is the federal law that says each state must pass and have in effect UIFSA 1996. Public Law 113-183, which passed in September, amended that law

and requires each state to adopt UIFSA 2008 as a condition of receiving federal funding for the state's child support program.

SENATOR COSTELLO expressed the wish that states had a more true voice in regards to making such important changes without risking the loss of federal funds.

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SENATOR COGHILL asked if the formula remains the same.

MS. BEECHER confirmed that's correct.

SENATOR COGHILL asked if the federal law works well with the child support compact between states.

MS. BEECHER responded that she believes that UIFSA is the law that states use when they interact on child support matters.

SENATOR COGHILL offered his understanding that the Uniform Law Commission is trying to line up an international treaty.

MS. BEECHER clarified that once all the states have passed UIFSA 2008 Congress will ratify the treaty. Moreover, it is an excellent vehicle for states to enforce child support, particularly for children who reside in the U.S. and have a parent in a foreign country.

SENATOR COGHILL asked if the state has input when the Uniform Law Commission meets.

MS. STEINBERG answered yes. The commissioners met in 2007 or 2008 in Montana and a representative from the State of Alaska attended and gave input. The commissioners reviewed the procedural terms of the Convention that foreign countries agree to and added a new article to UIFSA to specifically implement the provisions of the Convention.

SENATOR COGHILL asked what the pro and con debate was in Congress.

MS. STEINBERG said she wasn't aware of any pro and con debate, but both the Senate and House unanimously passed the Preventing Sex Trafficking and Strengthening Families Act, which requires states to adopt UIFSA 2008. Ratification was done in 2010.

SENATOR COGHILL offered his understanding that this is a take it or leave it decision.

MS. STEINBERG agreed; she added that she and Ms. Beecher were available to answer questions now or after the meeting to provide more input. She noted that she also provided members a lot of information, including a copy of the Convention, to help the committee understand the provisions and how it works with child support.

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SENATOR MICCICHE joined the committee.

SENATOR COGHILL said he doesn't object to treaties, but they make him nervous.

MS. STEINBERG offered to give a sectional analysis.

CHAIR MCGUIRE asked Ms. Steinberg to discuss the sections that contain substantive changes.

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MS. STEINBERG told the committee that Sections 77 and Section 78 clarify the 2001 amendment to UIFSA that relates to making a controlling order determination for child support. She continued to review the substantive changes, starting with Section 79.

**Section 79** amends AS 25.25 to add new sections:  
**Jurisdiction to modify child support order of foreign country.** Provides that when a foreign country no longer has or refuses to exercise jurisdiction over a child support modification, Alaska may act over individuals subject to the personal jurisdiction of the court without consent and even when persons are not residents of this state and the order that is issued will be controlling.

**Procedure to register child support order of foreign country for modification.** Provides that a party or child support enforcement agency can file a petition to modify a foreign registration or at another time.

SENATOR COGHILL asked who the signatories are of the Hague Convention. He specifically asked about Asian countries because of the large Asian population in Alaska.

MS. STEINBERG replied about 30 companies, including the U.S., have signed on. She named them and confirmed that no Asian or

South American countries had signed on and ratified the Convention.

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**Section 80** amends AS 25.25.71 to remove the procedures on parentage and creates definitions for sections 25.701 to 25.713 regarding initiating, registering, contesting, enforcing, and modifying support orders. Definitions include "application," "central authority," "convention support order," "direct request," "foreign central authority," "foreign support agreement," and "United States central authority."

**Section 81** amends AS 25.25 by adding new sections:  
**Applicability.** Provides that sections 25.701 to 25.713 only apply to child support proceedings under the Hague Convention.

**Relationship of child support services agency to United States central authority.** Provides that the federal Department of Human Services has recognized the Alaska child support services agency as the agency that may act under the convention.

**Initiation by child support services agency of support proceeding under the convention.** Specifies that the Alaska child support services agency provides enforcement services in child support proceedings to establish, modify, and enforce child support in foreign and domestic proceedings.

**Direct request.** Provides that an individual may request to establish, modify, or enforce a child support order under the applicable laws of the state, but does not require the child support services agency to provide assistance to the petitioner who is filing the request. This section provides that the statutes applying to the convention do not prohibit the use of the simplified and expedited rules in Alaska law for recognition and enforcement of foreign support orders.

**Registration of convention support order.** Provides the necessary documents to register a foreign support order including: the order and verification of its enforceability in the country it came from, the total arrears, and the due process rights of the respondent.

This section provides that the court does not have to register an order if it finds that it would be contrary to public policy and must promptly notify the parties if the order is not registered.

**Contest of registered convention support order.** References to statutes that apply to contested registration of a support order and provides the regulations for registering a support order under the Hague Convention, specifically the timelines for contesting registration and the basis for contesting the registration.

**Recognition and enforcement of registered convention support order.** Provides the circumstances under which Alaska may refuse to register a support order that is under the Hague Convention.

**Partial enforcement.** Provides that when one part of a foreign order can be enforced and one part cannot the court shall enforce the part that can be enforced.

**Foreign support agreement.** Provides the terms under which a foreign support agreement can be recognized and enforced in Alaska.

**Modification of convention child support order.** Provides that an Alaska tribunal cannot modify a child support order when the obligee is still a resident of the foreign country where the order was issued unless that obligee agrees that Alaska has jurisdiction, the foreign court refuses to exercise jurisdiction, or the order could not be registered because of a lack of jurisdiction, fraud, or lack of authenticity of the order in the foreign jurisdiction.

**Personal information; limit on use.** Personal information under these section is only to be used for the purposes for which it was gathered.

**Record in original language; English translation.** Provides that a record of the court proceedings from the foreign country must be in its original language and if not in English must come with an English translation.

**Sections 82 through 84** makes conforming technical changes.

**Section 85** clarifies that uniformity is promoted and encouraged.

**Section 86** repeals AS 25.25.205(f), 25.25.206(c), 25.25.301(b), and 25.25.401(c). These sections address spousal support. A new section, 25.25.281 will address spousal support. See Section 25 of the bill.

**Section 87 Applicability.** Adds that the effective date applies to proceedings that are started on or after the effective date of this act to any action to determine parentage, or register, recognize, modify, or enforce an order or agreement.

**Section 88 Transition provisions.** Provides that the Department of Revenue may adopt regulations to implement changes by this act.

**Section 89 Revisor's instruction.** Directs the revisor to change the headings or catch lines for certain affected sections of the chapter.

**Section 90 Effective date.** Section 88 addressing, addressing regulations, is effective immediately.

**Section 91 Effective Date.** The Act is effective July 1, 2015.

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SENATOR COGHILL asked if current statutory regulations will need to be changed.

MS. STEINBERG replied none have been identified.

SENATOR COGHILL observed that the capacity for public comment on regulations appears to be limited.

MS. STEINBERG replied there is a public comment period for regulations. Responding to a further comment, she said there isn't be much flexibility but the regulations that are in place will probably be sufficient.

SENATOR COGHILL asked if this helps or hinders communication between states and nations.

MS. STEINBERG replied UIFSA makes interstate enforcement of collecting support much more efficient and effective. The goal of the multilateral treaty is to extend that to foreign countries.

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SENATOR COGHILL spoke to the importance of getting the original order right.

MS. STEINBERG agreed, and added that the other goal in child support enforcement is the requirement for all states to have a uniform set of child support guidelines that can be easily applied.

SENATOR COSTELLO asked how many Alaska children are involved in child support services and how many have parents in foreign countries.

MS. BEECHER advised that about 49,000 Alaska children are currently in a child support case. Based on a sample survey, about 42 percent have a parent who lives outside the U.S.

SENATOR COGHILL expressed interest in knowing how many are and are not European.

MS. BEECHER responded that, based on the sample, a large majority are German.

CHAIR MCGUIRE thanked the presenters for the work they do for children.

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CHAIR MCGUIRE announced she would hold SB 51 for further consideration.

#### **SB 49-CIVIL LEGAL SERVICES FUND**

[2:04:29 PM](#)

CHAIR MCGUIRE announced the consideration of SB 49. "An Act allowing appropriations to the civil legal services fund from court filing fees." She explained that she introduced this legislation after getting involved with Alaska Legal Services Corporation (ALSC) to help women who were victims of domestic violence

Speaking as sponsor, she explained that she introduced the bill in previous legislatures to look at funding Alaska Legal Services from the punitive damages fund. The current bill proposes taking 25 percent of the annual filing fees paid to the Alaska Court System. She believes that ALSC should receive adequate funding because it serves people who would otherwise not have legal representation.

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NIKOLE NELSON, Executive Director, Alaska Legal Services Corporation (ALSC), explained that ALSC is a nonprofit law firm that has been providing free legal help for low-income Alaskans for the past 45 years. Their mission is to ensure that everyone is treated fairly in the justice system. ALSC provides free legal help so people can protect their livelihoods, families, health, and safety. They provide individual advice and representation, self-help materials, community education, and clinics. The work is done by regional staff attorneys in 11 offices statewide and a network of pro-bono volunteers.

She reviewed the types of cases and highlighted that last year ALSC provided direct representation in 2,600 cases and served an estimated 43,000 individuals through their website. An additional 2,000 people attended self-help clinics and workshops. She reported that a recent outcome study found that ALSC was successful getting positive results for clients 86 percent of the time, and that there was a 5:1 return on the funds invested in the program.

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MS. NELSON highlighted the problem that ALSC had to turn away one person for each one it helped last year due to a lack of resources. In 1984 ALSC's appropriation was \$1.2 million to serve a poverty population of about 40,000. Today the appropriation is \$550,000 and the poverty population is about 106,000. She urged the committee to help ensure that access to justice is a reality for all Alaskans, not just those who can afford an attorney. Passing SB 49 would allow the legislature to appropriate up to 25 percent of the Court System filing fees into the civil legal services fund. The legislature would then have discretion to appropriate that amount each year to Alaska Legal Services Corporation or other organizations providing free legal aid to low-income Alaskans.

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SENATOR COGHILL asked what other funding ALSC receives, including private sources.

MS. NELSON replied a variety of federal, state and private funds make up the \$4.2 million budget. ALSC receives funds from the federal government, community partners, private fund raising and foundation support.

SENATOR COGHILL asked how the federal government provides funds.

MS. NELSON explained that Congress makes an annual appropriation to the national Legal Services Corporation and each state receives a share based on its poverty population. Although Alaska's poverty population is growing, the poverty population in the Lower 48 is growing at a much higher rate so Alaska's share of the appropriation is reduced.

SENATOR COGHILL asked how ALSC is connected to the federal Legal Services Corporation.

MS. NELSON clarified that the Legal Services Corporation is not a federal agency, but it receives an annual appropriation from Congress and then disburses grants to recipients in each state based on the poverty population in the particular state.

SENATOR COGHILL asked how much the Legal Services Corporation receives from Congress on an annual basis.

MS. NELSON replied she didn't have that information; she only knew what ALSC has received.

SENATOR COGHILL expressed concern that the state is already paying for legal services through the Public Defender Agency and the Office of Public Advocacy, but acknowledged that ALSC cases cover a larger breadth. He said he appreciates and respects the work that ALSC has done helping victims of domestic violence and veterans, but he struggles with the time spent on larger social questions like the Pebble Mine issue. "Sometimes we're actually helping you sue the state. Sometimes the state is a bad actor; I get it. Sometimes it's a larger social question; you don't get me on that," he said.

MS. NELSON clarified that Alaska is not an outlier in receiving federal grant monies and that ALSC is not duplicating legal work of state agencies.

She further clarified that Alaska Legal Services Corporation did not take a position on the merits of the Pebble Mine case. ALSC filed an amicus brief when the case was before the Alaska

Supreme Court addressing the question of whether or not pro-bono attorneys have to disclose all their finances. ALSC's position was that it would be a barrier to getting private attorneys to volunteer their time if it would require that they disclose all their personal finances.

SENATOR COGHILL expressed appreciation for the explanation.

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SENATOR MICCICHE stated support for the merits of the bill and clarified that ALSC only takes on civil cases. It's a pool that isn't available elsewhere, he said.

SENATOR COGHILL expressed concern about the cost benefit of taking cases to the Alaska Supreme Court and asked for help putting it in context.

MS. NELSON replied ALSC takes on about 2,600 individual cases each year and a very small number (perhaps one percent) go before the Alaska Supreme Court. Examples of the cases at the trial court level might include a victim of domestic violence who was awarded custody of her children. If it's appealed the next stop is the supreme court and ALSC has to follow it up to ensure that the mother retains custody. There isn't anybody else to stand in and preserve her rights. When any case is appealed, the victim needs representation through the complicated appellate system to preserve their rights.

SENATOR COGHILL expressed concern with establishing a funding stream that is "free."

CHAIR MCGUIRE opened public testimony.

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ANDREW GAMBLE, Jr, representing himself, Juneau, Alaska, said he's a Vietnam veteran speaking in support of SB 49. He shared the story of Alaska Legal Services Corporation helping him when he tried to settle his mother's estate. They returned his quality of life.

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GERALD "SANDY" ROBERTS, representing himself, Juneau, Alaska, testified in support of SB 49. He shared the story of being a three-tour Vietnam veteran who was injured in the service. He was reinjured years later but unable to get veteran benefits because his records were lost or destroyed. If someone hadn't

finally suggested he go to the Alaska Legal Services Corporation for help, he would probably be a veteran on the streets.

SENATOR COSTELLO thanked both veterans for their service to their country.

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ROBBIN SMITH, representing herself, Anchorage, Alaska, testified in support of SB 49. She shared that the Alaska Legal Services Corporation gave her the courage to fight back against the domestic violence in her life. They provided support and helped her navigate the legal system to get a divorce and get custody of her children.

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MARIE DARLIN, representative, AARP Alaska, Juneau, Alaska, testified in support of SB 49. She noted the letter of support in the packets that articulates AARP's support for having alternative mechanisms for funding the Alaska Legal Services Corporation. In particular, ALSC has a long, successful history of service to older Alaskans.

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DENISE DANIELLO, Executive Director, Alaska Commission on Aging, Department of Health and Social Services (DHSS), testified in support of SB 49. She highlighted that seniors have unique financial, health care, and social needs. Many live on a fixed income and receive extensive help from ALSC. She informed the committee that several years ago the commission and ALSC applied for a grant through the U.S. Administration on Aging to provide workshops for seniors to help establish wills, powers of attorney, conservatorships, and guardianships. The money was used to support travel for an ALSC attorney to go to communities that didn't have an ALSC presence. Helping seniors gain access to the civil justice system was greatly appreciated, she said.

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NANCY MEADE, General Counsel, Office of the Administrative Director, Administrative Staff, Alaska Court System, introduced herself.

SENATOR COSTELLO asked what impact the bill will have on the Court System.

MS. MEADE replied the Court System does not anticipate a fiscal impact should SB 49 pass. All the fees that are collected go

straight to the general fund and the court has no input thereafter.

SENATOR COSTELLO asked how much the Court System collects in filing fees.

MS. MEADE advised that the amount doesn't vary much from year to year. In FY2014 the court collected \$2,252,900; 25 percent of that is \$563,225. Looking back five years, 25 percent of the totals range from \$563,000 to \$660,000. She noted that in response to the state's fiscal picture, the supreme court is considering raising the filing fees by July 1 to coincide with the new fiscal year. Based on the information she's received, that could mean the court would collect up to \$1 million more per year.

SENATOR COSTELLO asked if the filing fees vary.

MS. MEADE replied the court administrative rules list the fees based on the court. For example, the filing fee for an appeal is \$150 and the filing fee in superior court for a divorce or some other civil matter is also \$150. If the case can be filed in district court because the amount in controversy is lower, the filing fee is \$90. There are waivers for indigent parties and the court doesn't collect filing fees from state agencies, which means there are no filing fees for criminal cases.

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SENATOR MICCICHE asked Ms. Nelson to address whether or not poor Alaskans have more availability to legal representation than the average Alaskan because Senator Coghill's question about equal access and the cost benefit of cases is legitimate.

MS. NELSON explained that ALSC attorneys meet once a week to talk about which cases to take on. They are prioritized based on family safety and economic stability, although some grants allow prioritization in other areas. The economic benefit study that looked at the outcomes of ALSC's work showed that 80 percent of the cases were settled without going to court.

SENATOR MICCICHE asked if additional funding would allow ALSC to expand its scope and perhaps take on civil cases that Senator Coghill fears because they're social or environmental in nature.

MS. NELSON answered no; ALSC's core function is to serve low-income people in civil cases when they can't get representation

anywhere else. They would not move into environmental or social work if they had additional resources.

SENATOR COGHILL disclosed that he worked with ASLC on veteran allotments. He reiterated that before the legislature provides a funding stream, he wants assurance that all needy people are represented.

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CHAIR MCGUIRE stated support for Alaska Legal Services Corporation and the safety net it provides for low-income Alaskans.

CHAIR MCGUIRE held SB 49 in committee for further consideration.

[2:57:23 PM](#)

There being no further business to come before the committee, Chair McGuire adjourned the Senate Judiciary Standing Committee meeting at 2:57 p.m.