Memorandum

TO:	**Senator Hollis French, Chairman of the Senate Judiciary Committee, Alaska State Legislature**
FROM:	**David Shaftel & Caroline Wanamaker**
DATE:	**February 3, 2012**
RE:	**Amendments to Uniform Transfer to Minors Act**

During the hearing on Senate Bill 165 before the Senate Judiciary Committee, Senators McGuire and French requested information concerning the ages of distribution under the Act. In addition, Senator McGuire wanted to make sure that the amendments did not reduce the ages for distributions under the existing Act. These matters are discussed below.

Type of Transfer	**Default Rule**	**Variations Permitted at Time Transfer is Made**
Irrevocable Gift *AS 13.46.030*	Age 21 *AS 13.46.190(1)*	Age 18 to 25, with minor's right to compel distribution at age 21 *AS 13.46.195* *AS 13.46.080*
Exercise of Power of Appointment *AS 13.46.030*	Age 21 *AS 13.46.190(1)*	Age 18 to 25 *AS 13.46.195* *AS 13.46.080*
Personal Representative's or Trustee's Transfer Authorized by Will or Trust *AS 13.46.040*	Age 21 *AS 13.46.190(1)*	Age 18 to 25 *AS 13.46.195* *AS 13.46.080*
Personal Representative's or Trustee's transfer under Will or Trust that does not authorize transfer *AS 13.46.050*	Age 18 *AS 13.46.190(2)*	Cannot presently be changed
Transfer by Obligor *AS 13.46.060*	Age 18 *AS 13.46.190(2)*	Cannot presently be changed

The latest version of these amendments is not intended to change any of the above periods of time in which the custodian can presently retain the assets in the account. The main purpose of the amendments is to allow the custodian to increase the duration of time in which the assets remain in the account. However, the minor will have the right to compel immediate distribution of the assets to the minor during the six month period that begins on the date that is the age for distribution specified in accordance with the Act ("this chapter").

It is very important that these amendments maintain the qualification of a gift to an account as a "present interest" within the meaning of Section 2503(b) of the Internal Revenue Code. This will allow gifts of $13,000 or less each year to be gift tax-free.

Here are several examples of the intended goals of these amendments:

Example 1. *(AS 13.46.030 Gift)* Parent forms a UTMA account for child without specifying the age at which the account terminates and makes annual exclusion gifts of $13,000 a year. Because Parent did not vary the default age at the time of setting up the account, the age upon which the account terminates and the assets are distributed to the child is 21. As child nears the age of twenty-one years, custodian of the account decides that it would be in the best interests of the child to extend the duration of the account until age thirty. Custodian would give the child notice of this intention to extend the account. Notice would be given within the six month period prior to age twenty-one. The child would have the right to compel distribution at age twenty-one. If the child did not compel distribution during the six month period that begins at age twenty-one, then the assets would remain in the account until age thirty.

Example 2. *(AS 13.46.040 Gift)* Parent's will leaves assets to minor child. A provision in the will authorizes the personal representative of parent's estate to form a UTMA account for child without specifying the age of termination of the account.. Because Parent did not vary the default age at the time of setting up the account, the age upon which the account terminates and the assets are distributed to the child is 21. As child nears age twenty-one, custodian of the account decides that it would be wise to extend the account to age twenty-five. Child will have the right to compel distribution at age twenty-one. As child approaches age twenty-five, personal representative again decides that it would wise to postpone distribution, now until age thirty. Child will have the right to compel distribution at age twenty-five.

Example 3. *(AS 13.46.060 Transfer)* Due to a personal injury accident, debtor owes minor child $25,000. Debtor may pay this amount to a UTMA account with an appropriate custodian. As the child nears age eighteen, the custodian determines that it would be wise to extend the account until age thirty. Child has the right to compel distribution at age eighteen. If the child does not compel distribution, then the assets would remain in the account until age thirty.

Example 4. Assume that an account has been extended to age thirty and the custodian again decides that it would be wise to extend the account until age forty. The procedure for extension of time can be repeated again. The custodian would give the child notice during the six month period that proceeds age thirty. The child would have the right to compel distribution during the six month period that begins on the date that is the age for distribution specified by this chapter, which would be age thirty due to the prior extension of time.