

**HB**

**460**

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**CS FOR HOUSE BILL NO. 460(STA)**

*Rep. Weyhrauch*

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

*Cap. 102*

**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY THE HOUSE STATE AFFAIRS COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVE KERTTULA**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to absences to provide care for certain family members for purposes of**  
2 **permanent fund dividend eligibility; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **\* Section 1. AS 43.23.008(a) is amended to read:**

5 (a) Subject to (b) and (c) of this section, an otherwise eligible individual who  
6 is absent from the state during the qualifying year remains eligible for a current year  
7 permanent fund dividend if the individual was absent

8 (1) receiving secondary or postsecondary education on a full-time  
9 basis;

10 (2) receiving vocational, professional, or other specific education on a  
11 full-time basis for which, as determined by the Alaska Commission on Postsecondary  
12 Education, a comparable program is not reasonably available in the state;

13 (3) serving on active duty as a member of the armed forces of the  
14 United States or accompanying, as that individual's spouse, minor dependent, or

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- 1 disabled dependent, an individual who is
- 2 (A) serving on active duty as a member of the armed forces of
- 3 the United States; and
- 4 (B) eligible for a current year dividend;
- 5 (4) serving under foreign or coastal articles of employment aboard an
- 6 oceangoing vessel of the United States merchant marine;
- 7 (5) receiving continuous medical treatment recommended by a
- 8 licensed physician or convalescing as recommended by the physician that treated the
- 9 illness if the treatment or convalescence is not based on a need for climatic change;
- 10 (6) providing care for a family member [PARENT, SPOUSE,
- 11 SIBLING, CHILD, OR STEPCHILD] with a critical life-threatening illness or injury
- 12 [WHOSE TREATMENT PLAN, AS RECOMMENDED BY THE ATTENDING
- 13 PHYSICIAN, REQUIRES TRAVEL OUTSIDE THE STATE FOR TREATMENT
- 14 AT A MEDICAL SPECIALTY COMPLEX];
- 15 (7) providing care for the individual's terminally ill family member;
- 16 (8) settling the estate of the individual's deceased parent, spouse,
- 17 sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;
- 18 (9) serving as a member of the United States Congress;
- 19 (10) serving on the staff of a member from this state of the United
- 20 States Congress;
- 21 (11) serving as an employee of the state in a field office or other
- 22 location;
- 23 (12) accompanying a minor who is absent under (5) of this subsection;
- 24 (13) accompanying another eligible resident who is absent for a reason
- 25 permitted under (1), (2), (5) - (12), or (14) of this subsection as the spouse, minor
- 26 dependent, or disabled dependent of the eligible resident;
- 27 (14) for any reason consistent with the individual's intent to remain a
- 28 state resident, provided the absence or cumulative absences do not exceed
- 29 (A) 180 days in addition to any absence or cumulative absences
- 30 claimed under (3) of this subsection if the individual is not claiming an absence
- 31 under (1), (2), or (4) - (13) of this subsection;

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1 (B) 120 days in addition to any absence or cumulative absences  
 2 claimed under (1) - (3) of this subsection if the individual is not claiming an  
 3 absence under (4) - (13) of this subsection but is claiming an absence under (1)  
 4 or (2) of this subsection; or

5 (C) 45 days in addition to any absence or cumulative absences  
 6 claimed under (1) - (13) of this subsection if the individual is claiming an  
 7 absence under (4) - (13) of this subsection.

8 \* Sec. 2. AS 43.23.008(d) is amended to read:

9 (d) For purposes of (a)(6) and (7) [(a)(7)] of this section, "family member"  
 10 means a person who is

11 (1) legally related to the individual through marriage or guardianship;

12 or

13 (2) the individual's sibling, parent, grandparent, son, daughter,  
 14 grandson, granddaughter, uncle, aunt, niece, nephew, or first cousin.

15 \* Sec. 3. This Act takes effect January 1, 2005.



# Representative Beth Kerttula

Alaska State Legislature District 3

## Sponsor Statement

### House Bill 460

#### Permanent Fund Dividend Allowable Absences

To receive a Permanent Fund Dividend, an Alaskan must meet certain criteria, including a requirement that the person not be absent from the state more than 180 days. The legislature has defined certain "allowable absences," circumstances in which an Alaskan can claim an exception to the 180-day rule.

In 1996, House Bill 198 expanded the list of allowable absences to include, among other things, "providing care for a parent, spouse, sibling, child, or stepchild with a critical life-threatening illness whose treatment plan, as recommended by the attending physician, requires travel outside the state for treatment at a medical specialty complex."

This past summer I was contacted by a constituent who had to travel out of state to care for her son who lives in the Lower 48 and was critically injured in an accident. Unfortunately, since the son did not *travel* out of state for treatment, my constituent was denied her dividend because of the current language.

The intent of the original legislation was to ensure that people who sacrificed and put their lives on hold to care for a loved one were not denied their dividend for doing so. House Bill 460 would allow a person to care for a critically ill family member who either lives out of state or happened to be out of state when they became ill. Whether someone had to travel for treatment or not should not be the critical issue in determining eligibility for the Permanent Fund Dividend.

Most Alaskans have at least one close family member living outside the state of Alaska. When a family member is in critical condition, it is a difficult and trying time. Let us give them one less thing to worry about.

*incorporated  
into  
revision D*

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 460

1 Page 1, line 1:

2 Delete "relatives"

3 Insert "family members"

4

5 Page 2, lines 10 - 13:

6 Delete all material and insert:

7 "(6) providing care for a family member [PARENT, SPOUSE,  
8 SIBLING, CHILD, OR STEPCHILD] with a critical life-threatening illness or injury  
9 [WHOSE TREATMENT PLAN, AS RECOMMENDED BY THE ATTENDING  
10 PHYSICIAN, REQUIRES TRAVEL OUTSIDE THE STATE FOR TREATMENT  
11 AT A MEDICAL SPECIALTY COMPLEX];"

12

13 Page 3, following line 6:

14 Insert a new bill section to read:

15 "\* Sec. 2. AS 43.23.008(d) is amended to read:

16 (d) For purposes of (a)(6) and (7) [(a)(7)] of this section, "family member"  
17 means a person who is

18 (1) legally related to the individual through marriage or guardianship;

19 or

20 (2) the individual's sibling, parent, grandparent, son, daughter,  
21 grandson, granddaughter, uncle, aunt, niece, nephew, or first cousin."

22

23 Renumber the following bill section accordingly.

5915 Gibson S.E.  
Albuquerque, New Mexico,  
87108

1 April 2004

To the members of the Alaska House State Affairs Committee:

Greetings from Albuquerque, New Mexico where we are expecting a sunny high today of 74 degrees! .

Thank you for allowing this time for testimony on HB 460, a bill "relating to absences to provide care for certain relatives for purposes of permanent fund dividend eligibility."

My name is Iris Manya Pungowiyi-Reed, and I am proud to be a long-time Alaskan, having arrived in the state on 8 January 1970, as a 21-year-old with a 3 week old baby, Bryce, in hand. My then husband had just received a Realty Specialist position with the Bureau of Land Management, and we were being sent to Glennallen, a very small community in those pre-pipeline days, of 300 folks from many varied backgrounds. We started our new lives in one of the old highway camp buildings behind the RCA tower, but knew within the first year and a half of our residency in the Copper Basin that it was home. So we got some land from the state, complete with permafrost 6" underground, and we, who were probably the least experienced carpenters in the 190 miles between our home and Anchorage, built a 12 x 24 plywood cabin and outhouse. No matter where we were residing for work or school---be it Anchorage, Dillingham, the Fairbanks area, Valdez or Palmer--- until we had to sell this property in 1989 our Home was always there.

In August, 1990, having recently divorce and while living in Anchorage, I was hired as an intern by Perseverance Theater in Juneau. My daughter was in grade 5, and with her approaching middle school, I knew I didn't want us remaining in The Big City.

Clarissa fit in well at Marie Drake, and I was impressed by the child-friendliness of the town, as well as the community's commitment to the arts. Bryce was in the Marines at the time, and so just the two of us moved. Ultimately I remarried, and my husband, Ron Reed, and I bought a home on Douglas Island that has large picture windows overlooking the channel, which offer ever-changing scenarios of birds rising, falling and gliding on the currents of air around the bridge. It is very beautiful.

-2-

In 2001, after 17 years service at the State library, Ron took early retirement and had entered UAF's Rural Educators Preparation Partnership Program to train as a teacher. My niece, had injured her leg while attending the University of New Mexico as an exchange student from UAS, and required surgery. She would be laid up for two weeks post-op, and, as a single mom, needed help. The logical time for this to happen seemed to be during the break between semesters. Bryce was living in Denver, and since the two of them were 'best friends,' and his birthday was on December 15<sup>th</sup> we all decided to rendezvous in Albuquerque for a birthday/Christmas/recuperation/ 'mini-vacation' before we moved to Bristol Bay.

At 7:30am, December 13<sup>th</sup>, 14 miles out of Albuquerque, Bryce hit black ice, his car spun out of control, hit the bumper of a pickup, and then an eighteen wheeler T-Boned him.

Bryce was rushed to the Trauma ICU at UNMH. His spleen had ruptured immediately on contact. He had 2 punctured lungs & 4 broken ribs, a tear in his liver, two tears to his diaphragm, a sub-dural hematoma, and most importantly, an aortic aneurysm. When one has a traumatic brain injury, as is the sub-dural hematoma, the treatment involves amongst other things, immediate flooding of the brain with oxygen. Due to the aneurysm in his aorta, Bryce needed immediate heart surgery, but because of the massive loss of blood he had experienced, coupled with the unstableness of his condition he would not have been able to tolerate a traditional procedure. Dr. Kasirahjan, the vascular surgeon approached me about inserting an experimental aortic stint into Bryce's aorta, and I signed the consent. While waiting for the FDA's approval, and the actual arrival of the stint his blood pressure was kept artificially low, and his brain, rather than being saturated with Oxygen, was starved for it—a condition known as apoxia. He experienced seizures during this period, and because of increased pressure and swelling of his brain, the neurosurgeons were forced to insert a shunt into Bryce's brain.

During this period he had many surgeries, and his abdomen was left open and packed with gauze, because the internal bleeding was so severe from the hepatic tear. The surgeons were uncertain if one of the repairs to his diaphragm would be successful as it was very close to the aorta, but, knock on wood, it has been, and so far there have also been no complications from the stint. He had complications while he was still on the respirator which resolved themselves, and his lower legs developed blood clots which were successfully treated.

-3-

When one is admitted to the trauma ICU, he or she is given an alias until the time they are stable. For the month that Bryce was in the TICU he was only referred to, and all his paperwork was in the name of Trauma Yasser. It was a cause for celebration when, once again he became known as Bryce Pungowiyi. I am very grateful that he had wonderful care early in his hospitalization, and that there are no serious side effects from all the internal injuries he suffered. However, the impact from the Traumatic Brain Injury and the apoxia are extremely severe.

Bryce is non-verbal and only initiates movement to a small degree. He is fed through a g-tube which was surgically inserted in his abdomen, and his arms, wrists and hands are very contracted. He is 100% dependent on others for his care, and has no communication system by which to make his needs known. Positioning is very important, and his muscle tone can increase dramatically if it is inappropriate. He currently resides in a good nursing home, but it is a situation I would very much like to change, as I would like him home with us. When I was in Juneau last year I explored that possibility. Unfortunately there is no longer a cardiac physician practicing there, and Bryce needs to have either a cardiac surgeon or vascular surgeon available to him. The stint is still unapproved as there has been a high incidence death due emboli forming around it. Appropriate emergency care and periodic monitoring are necessities that can not be met locally.

Bryce is a millennium vet, who has a 100% service connected disability and uses the VA hospital as his primary care facility in Albuquerque. When I was in Anchorage, I explored the resources of the VA hospital there being able to meet his needs, and was informed that he would have to travel to Seattle if there was a cardiac emergency due to his stint. I don't feel comfortable taking that level of risk, and I am not willing to abandon my son so that I can return home. Hopefully, in the future we will have a full service VA hospital, as our Alaskan veterans are deserving of the best.

The past 2 years have been very difficult. Until May of 2003, Ron was living in Dillingham as a student finishing up his teacher certification. I was down here by myself without support or family, and fighting an ongoing battle to try to get my son the services he needs, and those that I know would benefit him. We have financially had a desperate struggle: supporting 3 households with our home in Douglas unrented most of that time, and Ron's retirement and my part time work our only source of income. This past Fall we had to re-roof our formerly flat roof on the Douglas home as it was leaking badly. We still have no idea how we are going to pay for it.

-4-

I received my AAS in Developmental Disabilities from Prince William Sound Community College in 1987, served on the advisory board for Parents, Inc., and have been active as an advocate in Alaska for people who experience disabilities for a good 20 years. You may have seen me during the Key campaign or heard me testify to a Senate sub-committee on the need for increased funding and shorter wait lists for families whose children need services. Never in a million years did I expect to need to use these skills with one of my adult children. Even in the best of long term care facilities, patients without active family members advocating for consistency of care and normalization lose out on services, and those whose families live in villages far removed frequently die. I am a very active member of my son's care team, and even with my background it has been very difficult to transverse the maze of service providers in order to get his needs met. I don't plan to leave until he is either living at home with us in Alaska, or I feel very secure in his living arrangement here, which I don't at this time.

Representative Kertulla's office has some photo's to share with you. The first ones show Bryce on some typical days when I am present in Albuquerque. The second batch were taken on the day I returned from 4 weeks in Alaska in May 2002. As you can see, Bryce appears to be in pain. His skin is broken down on his face, and his lips are swollen and caked with blood. He was not positioned at all appropriately, and had almost completely slid out of his wheelchair. His therapeutic boots were not velcroed snugly, and provided him no support. When I saw him, my heart broke. I am his mom and next of kin, as well as guardian of the person. He needs me here as his advocate.

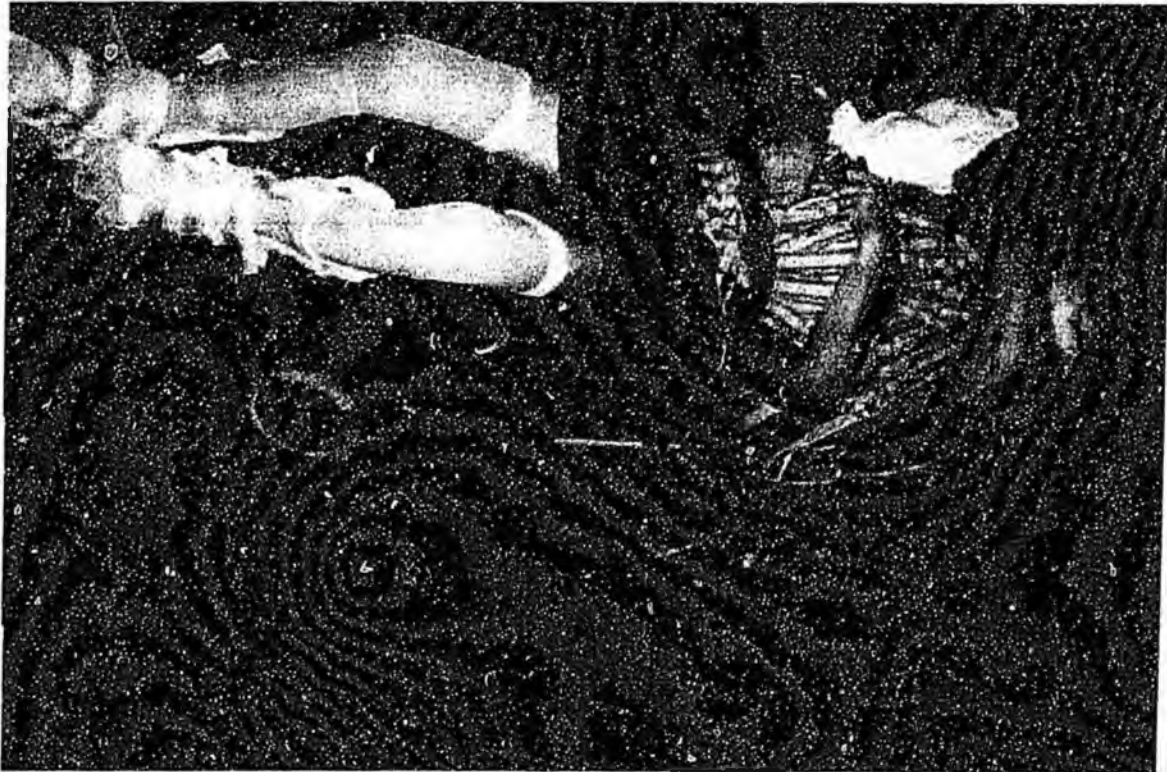
This doesn't mean that I've given up my Alaskan residency. My voter registration is still in Alaska, we own property in Alaska and pay local tax on it, and my driver's license is still Alaskan. We love Alaska and have always been active in the community. My husband even ran for a Juneau city council seat and I am very involved in the arts community there. We would not be residing here if not for these extreme circumstances, and feel that the language currently in effect regarding absences, does not address those such as ourselves who need to leave the state to care for a family member injured outside of Alaska. We as much as anyone, applaud the intent to prevent PFD fraud, but feel circumstances such as ours need to be included as an exception. HB 460 addresses these issues.

Thanks for this opportunity to testify, and for your consideration of this bill.

**Bryce when his mom is around**



Bryce after his mom was gone to Alaska for several weeks for her daughter's wedding





## Geriatrics Associates, P.C.

H. Huson Middleton III, MD, CMD  
April H. Volk, MD

5353 Wyoming Blvd, NE  
Suite 5  
Albuquerque, NM 87109-3132

Phone: 505-797-5630  
Fax: 505-858-1224  
Email: geriatricsapc@msn.com

February 24, 2003

Manya Pungowiyi  
Mother of Bryce Pungowiyi

RE: **Bryce Pungowiyi**  
**DOB: December 15, 1969**  
**SSN: 574-58-1594**

To Whom It May Concern:

Ms. Pungowiyi is the mother of Bryce Pungowiyi who was involved in a T-bone motor vehicle accident on December 13, 2001. He suffered life-threatening injuries including head trauma, chest and abdominal injuries and had to undergo multiple surgical procedures. For a time he was intubated and on life support. Since this accident and the ensuing hospitalizations, physicians' appointments and rehabilitation therapies Ms. Pungowiyi's presence with her son has been of paramount importance to his rehabilitation and recovery.

She is his only advocate and spokesperson. She is communicating with him as no other individual can and is certainly motivating him toward the maximum recovery possible. His condition is still tenuous and he is continuing to receive physical and occupational therapy. He is still being followed by the specialists at the Veterans Administration Hospital in Albuquerque, NM and Ms. Pungowiyi is in consistent contact with the physicians there as well as myself.

Although she is here in New Mexico while her son is undergoing these intensive rehabilitation efforts she wishes to retain her residency status in Alaska. This is certainly her wish to see her son recover enough to allow she and her son to return to Alaska as soon as possible.

Sincerely,



H. Huson Middleton III, MD, CMD

HHM/khm



**Department of Veterans Affairs  
New Mexico VA Healthcare System  
1501 San Pedro Drive SE  
Albuquerque NM 87108-5154**

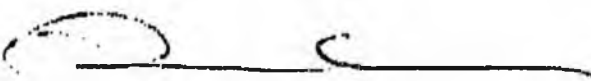
March 30, 2004

**Bryce Pungowiyi**

In Reply Refer To:

To Whom It May Concern:

- Bryce Pungowiyi, is a 33 year old veteran and son of Manya Pungowiyi-Reed who was in a motor vehicle accident December 13, 2001. The veteran sustained a traumatic and anoxic brain injury. He has been in a persistent vegetative state since that time and has been in a nursing home in Albuquerque, New Mexico.
- The veteran's next-of-kin is his mother, Manya Pungowiyi-Reed. Ms. Pungowiyi-Reed has been physically available as the veteran's medical/treatment guardian and only advocate since the motor vehicle accident.

  
Rebecca Gonzales, LISW  
Clinical Social Worker  
VA Medical Center



*Healthcare* To Whom It May Concern,

This letter is on behalf of Manya Pungowiyi, who is the POA and Guardian of Bryce Pungowiyi. She has requested that I compose a letter to you to share some of the ways that she has advocated for Bryce's care.

Bryce has been a resident of Laurel View Healthcare since . From the beginning, Manya has been a leader in inservicing our staff in the most appropriate ways to care for Bryce, from an easier way to put his shoes on, to the types of music he likes to listen to while he is in bed. She has privately hired a massage therapist to work with Bryce and encourage relaxation, a technique that we do not offer ourselves in our facility. Bryce is 100% dependent, and relies on his mother to maintain his physical and financial well being. She accompanies Bryce on every appointment that he has, and assists the physicians in communicating information back and forth from the VAMC and maintains a continuous level of care for Bryce.

We have several resident's in our facility who have a POA and Guardian, but who are not fortunate enough to have them as active in their care as Manya is for Bryce. Manya works with the facility in a team effort to maintain the best possible care that Bryce could receive. I personally am thankful for the effort that Manya is able to put into Bryce's care, and look forward to working with her for Bryce for many years to come. Thank you for your attention to this letter and Manya's efforts for Bryce Pungowiyi.

Sincerely,

Hillary M. Smith  
Director of Social Services  
Laurel View Healthcare  
505-822-6206  
4/1/04

**TESTIMONY OF RON REED ON HB 410**

Thank you for this opportunity to testify on the bill before you.

1 of 2

My name is Ron Reed, and I moved to Alaska in 1975. My wife moved there even earlier, in 1970. We both consider Alaska to be our home, and under ordinary circumstances, we would be residing in the state at this time. Just to give you a brief background of our situation: in 2000, I took early retirement after 16 and a half years working for the State Library in Juneau, where we bought a house in 1998.

My intention was to enroll in the UAS Master of Arts in Teaching program in order to begin a second career as a high school English teacher. For a number of reasons, this initial plan didn't work out, and I arranged as an alternative to participate in the Rural Educator Preparation Partnership or REPP program, run out of Fairbanks. We were to move to Dillingham in Jan. 2002 for a one year internship in the Dillingham Middle High School.

Meanwhile, our niece, a single mother with an at the time, six-year-old son, had moved to Albuquerque as an exchange student from UAS to the University of New Mexico in her senior year. She sustained a knee injury in Sept. of 2001, and was due to have surgery just before Christmas. We arranged to fly down to help her take care of her son while she recuperated, and planned to return to Alaska at the beginning of the year. I was going directly to Dillingham for the start of the spring semester, while Manya was to proceed to Juneau to put our things in storage and arrange to prepare our home for rental.

Mid-December happened to also be our son Bryce's 31st birthday, and he was going to join us in Albuquerque, driving over from Dallas, Texas, for the occasion. (Although he was three weeks old when he came to Alaska, and was raised here, he has not lived up north for over a decade.) Well, the best laid plans and all that. On his way into Albuquerque on I-40, he hit a patch of ice in the canyon just outside of town at 7 in the morning, slid into the opposing lane and was hit on the driver's side by an 18-wheeler, which demolished his car and came very close to killing him - it was touch and go for a few days whether he would survive at all, with extensive internal injuries.

We were overnighting in Tucson on our way to Albuquerque and needed to check our email to get the confirmation code for our flight two days later. Our daughter, whose number had been on Bryce's cell phone, had been notified by the Trauma ICU of UNM Hospital of his accident, and that his condition was critical. Not knowing exactly where we were, she had emailed us with an "emergency" subject line. Thank God for modern technology! When we heard, we modified our plans on the fly, and ended up deciding that Manya would stay in Albuquerque with Bryce to help take care of and advocate for him - she has a degree in developmental disabilities - while I would go ahead up to Dillingham and complete the Rural Educator program.

For the next year and a half we lived apart, and basically maintained three households, as we hadn't been able to pack up our personal items and furniture to make our Juneau house rentable. Since I was taking classes and interning as a student teacher, we had only retirement income from state services to live on, and it has, needless to say, not been easy. In May of last year, I finally completed my course of studies for certification, and flew down to Albuquerque to be with the rest of my family.

Bryce has been living in a nursing home ever since he got out of the traumatic intensive care unit at the hospital, and his internal injuries have mostly healed. However, he now has a stint in his aorta due to a tear that was one of his injuries from the accident. He also suffered a head injury in the accident, and that combined with apoxia due to the aortic tear's having

*TESTIMONY OF RON REED ON HB 460* 2 OF 2  
mandated that his blood pressure be maintained artificially low has resulted in his being non-verbal, and non-mobile, although responsive to some degree.

The VA is paying for the facilities - he was a fully disabled Marine vet before the accident - for which we are grateful, but this means that he cannot be brought back to Alaska, as the requisite facilities are not available up there. And we have been constantly struggling with the VA in an effort to convince them that rehabilitative therapy would do him good; their Chief of Rehabilitation disagrees, and would just as soon he simply continue in what he is convinced is a persistent vegetative state. Should we return in the near future to our home in Alaska, that would be Bryce's final outcome.

Obviously, we do not consider this an option. We don't plan on staying in Albuquerque for the long term; we would like to return to our chosen home as soon as it's feasible - but this may not be for a while. If Bryce were simply dying, or had officially resided in Alaska at the time of the accident, we would be eligible for the dividend under the Permanent Fund's guidelines with no question. Yet because we are here to take care of our son, who is not dying but who would be much worse off were we to leave, the administrator has ruled that we are no longer Alaskans.

I would like to emphasize that my voter registration is in Alaska, my vehicle is registered in Alaska, my driver's license is issued by the State of Alaska, and we maintain property in Alaska - our house in Juneau, as well as a small piece of land near Cathedral Bluffs I obtained and surveyed under the Open to Entry program around 1980. And we both consider Alaska our home; that is, after all, where most of our friends still live. We believe that the residential restrictions on the PFD distribution were not intended to apply to people in our situation, and would like to see this oversight in the regulations rectified, through Rep. Kerttula's bill or through other means.

Thank you again for this opportunity to testify.