

1 **REORGANIZATION OF VETERAN - RELATED PROGRAMS**

2 2000 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Martin R. Stephens**

5 AN ACT RELATING TO MILITIAS AND ARMORIES AND VETERANS; MOVING THE
6 OFFICE OF VETERANS' AFFAIRS FROM THE DEPARTMENT OF COMMUNITY AND
7 ECONOMIC DEVELOPMENT TO THE UTAH NATIONAL GUARD; MAKING IT A
8 DIVISION; MOVING THE ADMINISTRATIVE RESPONSIBILITY FOR THE VETERAN'S
9 MEMORIAL PARK AND NURSING HOME TO THE DIVISION; DEFINING THE
10 MEMBERSHIP AND DUTIES OF THE VETERANS' ADVISORY COUNCIL; MAKING
11 TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

12 This act affects sections of Utah Code Annotated 1953 as follows:

13 AMENDS:

14 **39-1-12**, as last amended by Chapter 9, Laws of Utah 1988, Second Special Session

15 **71-7-3**, as repealed and reenacted by Chapter 112, Laws of Utah 1988

16 **71-7-4**, as last amended by Chapter 243, Laws of Utah 1996

17 **71-8-1**, as enacted by Chapter 44, Laws of Utah 1992

18 **71-8-2**, as enacted by Chapter 44, Laws of Utah 1992

19 **71-8-4**, as last amended by Chapters 119, 194 and 243, Laws of Utah 1996

20 **71-9-1**, as last amended by Chapter 110, Laws of Utah 1994

21 **71-9-2**, as last amended by Chapter 110, Laws of Utah 1994

22 **71-10-1**, as last amended by Chapter 133, Laws of Utah 1993

23 **71-10-2**, as last amended by Chapter 133, Laws of Utah 1993

24 **71-10-3**, as last amended by Chapter 133, Laws of Utah 1993

25 **71-11-2**, as enacted by Chapter 217, Laws of Utah 1995

26 **71-11-3**, as last amended by Chapter 79, Laws of Utah 1996

27 **71-11-4**, as enacted by Chapter 217, Laws of Utah 1995

28 **71-11-5**, as enacted by Chapter 217, Laws of Utah 1995

29 **71-11-6**, as enacted by Chapter 217, Laws of Utah 1995

30 **71-11-7**, as enacted by Chapter 217, Laws of Utah 1995

31 REPEALS AND REENACTS:

32 **71-8-3**, as enacted by Chapter 44, Laws of Utah 1992

33 This act enacts uncodified material.

34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **39-1-12** is amended to read:

36 **39-1-12. Adjutant general -- Appointment -- Term -- Duties.**

37 (1) (a) There shall be one adjutant general appointed by the governor. The adjutant general
38 is chief of staff and holds office for a term of six years, unless terminated by resignation, disability,
39 or for cause as determined by a military court or court-martial.

40 (b) The person appointed to the office shall be a citizen of Utah and meet the requirements
41 provided in Title 32, United States Code. He shall be a federally recognized commissioned officer
42 of the National Guard of the United States with no fewer than ten years commissioned service in
43 the Utah National Guard. Active service in the armed forces of the United States may be included
44 in this requirement, if the officer was a member of the Utah National Guard when he entered that
45 service. An officer is no longer eligible to hold the office of adjutant general after becoming 64
46 years of age.

47 (2) (a) He shall perform duties as are imposed by the laws of this state and the United
48 States, and by the regulations of the Department of Defense of the United States. However, if any
49 duties imposed by the statutes of this state at any later time conflict with those imposed by the laws
50 of the United States, the duties imposed by the statutes of this state, as far as they conflict, are
51 abrogated.

52 (b) He shall keep rosters of all active, inactive, and retired officers and enlisted men of the
53 National Guard and shall keep in his office all records, orders, regulations, and papers pertaining
54 to the National Guard and the militia of this state. He shall, when he considers it necessary, at the
55 expense of the state purchase or cause to be printed, and issue to members of the National Guard
56 or other persons, copies of the military law, the various orders of the Department of Defense of the
57 United States, and other literature he considers best for the interests of the service.

58 (c) He shall cause to be prepared all blanks, books, forms, and reports necessary to carry

59 out the provisions of this chapter. The blanks or forms shall be as identical as possible to those
60 required by the Department of Defense of the United States for use by the regular army or National
61 Guard.

62 (d) He has, under the direction of the State Armory Board, supervision and charge of all
63 the armories, warehouses, maintenance and repair shops, hangars, small-arms, artillery and aircraft
64 ranges, campsites, concentration areas, lands, training facilities, and military reservations necessary
65 to the military functions of this state. He is responsible for the protection and safety thereof and
66 shall make rules for the maintenance of order, for the enforcement of rules as may be ordered for
67 the operation and the repair, care, and preservation of the facilities and installations belonging to
68 or leased by the state [~~of Utah~~]. He may make further improvement as the good of the service
69 requires.

70 (e) He shall oversee the operations of the Division of Veterans' Affairs created in Section
71 71-8-2.

72 [~~(e)~~] (f) He shall cause to be prepared all blanks, books, forms, notices, and reports to carry
73 out the provisions of the military laws of this state. The blanks, books, forms, notices, and reports
74 shall be as identical as possible to those required by the Department of Defense for use by the
75 Armed Forces of the United States.

76 [(f)] (g) He shall make and transmit to the federal government the returns required by the
77 laws of the United States and submit to the governor a certified copy. He shall superintend the
78 preparation of all returns and reports required by the United States from Utah on military matters.

79 [(g)] (h) He shall act as agent for all active, inactive, or retired members of the National
80 Guard having claims against the United States for pensions, bounty, back pay, or disability arising
81 from any war, federal service, or training. He shall handle the claims without charge.

82 [(h)] (i) He shall, on or before January 1 next preceding the general session of the
83 Legislature, make a full and detailed report to the governor of all transactions of his office,
84 including related expenses, for the preceding year and shall report at other times and on other
85 matters as the governor requires or as he considers advisable.

86 Section 2. Section **71-7-3** is amended to read:

87 **71-7-3. Development, operation, and maintenance of Utah Veterans' Cemetery and**
88 **Memorial Park -- Responsibilities of Division of Veterans' Affairs -- Costs.**

89 (1) The Division of [~~Parks and Recreation, under the policy direction of the Board of Parks~~

90 and Recreation] Veterans' Affairs, in consultation with the Veterans' Memorial Park Board, shall
91 develop, operate, and maintain a veterans' cemetery and memorial park.

92 (2) To help pay the costs of developing, constructing, operating, and maintaining a
93 veterans' cemetery and memorial park, the Division of [~~Parks and Recreation~~] Veterans' Affairs
94 may:

95 (a) receive federal funds, contributions from veterans' organizations, and other private
96 donations; and

97 (b) charge fees for at least the cost of the burial of veterans' spouses and other persons,
98 whom the division and the Veterans' Memorial Park Board [~~of Parks and Recreation~~] determines
99 are eligible to be buried in a veterans' cemetery established by the state.

100 Section 3. Section **71-7-4** is amended to read:

101 **71-7-4. Veterans' Memorial Park Board -- Members -- Appointment -- Meetings --**
102 **Per diem.**

103 (1) There is created a Veterans' Memorial Park Board to serve as an advisory body to the
104 Division of [~~Parks and Recreation~~] Veterans' Affairs on matters relating to the establishment and
105 operation of a veterans' cemetery and memorial park.

106 (2) The board shall [~~include~~] consist of the following five members:

107 (a) one representative from the Veterans of Foreign Wars;

108 (b) one representative from the American Legion;

109 (c) one representative from the Disabled American Veterans;

110 (d) [~~one representative from~~] the director of the Division of [~~Parks and Recreation~~]
111 Veterans' Affairs; and

112 (e) one person not affiliated with any of the organizations referred to in this Subsection
113 (2).

114 (3) (a) Except as required by Subsection (3)(b), the governor shall appoint members in
115 Subsections (2)(a), (b), (c), and (e) above for four-year terms. The governor shall make final
116 appointments to the board by June 30 of any year in which appointments are to be made under this
117 chapter.

118 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time
119 of appointment or reappointment, adjust the length of terms to ensure that the terms of board
120 members are staggered so that approximately half of the board is appointed every two years.

121 (c) All members shall serve until their successors are appointed.

122 (d) Members may not serve more than two consecutive terms.

123 (4) When a vacancy occurs in the membership for any reason, the governor shall appoint
124 a replacement [shall be appointed] for the unexpired term within 60 days of receiving notice.

125 (5) (a) The board shall select a chair annually from among [~~the~~] its members at its first
126 meeting after July 1.

127 (b) Three members of the board constitute a quorum to transact business.

128 (c) The board shall meet at least twice a year on a regular date fixed by the board.

129 (d) The chair or three members of the board may call additional meetings.

130 (6) The board shall provide copies of all minutes and an annual report of its activities by
131 June 30 of each year to the Veterans' Advisory Council created in Section 71-8-4.

132 [~~(6)~~] (7) (a) (i) Members who are not government employees shall receive no
133 compensation or benefits for their services, but may receive per diem and expenses incurred in the
134 performance of the member's official duties at the rates established by the Division of Finance
135 under Sections 63A-3-106 and 63A-3-107.

136 (ii) Members may decline to receive per diem and expenses for their service.

137 (b) (i) State government officer and employee members who do not receive salary, per
138 diem, or expenses from their agency for their service may receive per diem and expenses incurred
139 in the performance of their official duties from the board at the rates established by the Division
140 of Finance under Sections 63A-3-106 and 63A-3-107.

141 (ii) State government officer and employee members may decline to receive per diem and
142 expenses for their service.

143 Section 4. Section **71-8-1** is amended to read:

144 **71-8-1. Definitions.**

145 As used in this chapter:

146 (1) "Council" means the Veterans' Advisory Council.

147 (2) "Department" means the [~~Department of Community and Economic Development~~]
148 Utah National Guard.

149 (3) "Director" means the director of the [~~Office~~] Division of Veterans' Affairs.

150 (4) "Division" means the Division of Veterans' Affairs.

151 [~~(4)~~] (5) "Executive director" means the [~~executive director of the Department of~~

152 ~~Community and Economic Development]~~ adjutant general of the Utah National Guard.

153 ~~[(5)] (6)~~ "Government entity" means the state and any county, municipality, special
154 district, and any other political subdivision or administrative unit of the state, including state
155 institutions of education.

156 ~~[(6) "Office" means the Office of Veterans' Affairs.]~~

157 (7) "Veteran" means:

158 (a) an individual who has served on active duty in the armed forces for at least ~~[90]~~ 180
159 consecutive days or was a member of a reserve component, who served in a campaign or
160 expedition for which a campaign or expeditionary medal was authorized and who has been
161 separated or retired under honorable conditions; ~~[and]~~ or

162 (b) any ~~[person]~~ individual incurring an actual service-related injury or disability in the line
163 of duty whether or not that person completed ~~[90]~~ 180 days of active duty.

164 Section 5. Section **71-8-2** is amended to read:

165 **71-8-2. Division of Veterans' Affairs created -- Appointment of director -- Division**
166 **responsibilities.**

167 (1) There is created within the ~~[Department of Community and Economic Development~~
168 ~~an Office]~~ Utah National Guard the Division of Veterans' Affairs.

169 (2) The ~~[executive director of the department]~~ governor shall ~~[appoint]~~ select a ~~[veteran~~
170 ~~as the]~~ director ~~[of this office]~~ for the division from a list of qualified veterans provided by the
171 Veterans' Advisory Council.

172 (3) The division shall:

173 (a) conduct and supervise all veteran activities as provided in this title; and

174 (b) adopt rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
175 Act, to carry out the provisions of this title.

176 Section 6. Section **71-8-3** is repealed and reenacted to read:

177 **71-8-3. Duties of director -- Services to veterans.**

178 The director shall:

179 (1) be responsible for the administration and the operation of the following veteran-related
180 operations:

181 (a) Utah State Veterans' Nursing Home and Programs;

182 (b) Utah State Veterans' Cemetery and Memorial Park;

- 183 (c) Veterans' Preference Law as defined in Section 71-10-1;
184 (d) any locally or federally funded programs for homeless veterans within the state; and
185 (e) any federally funded education services for veterans within the state;
186 (2) maintain liaison with local, state, and federal veterans' agencies and with Utah veterans'
187 organizations;
188 (3) provide current information so that veterans, their surviving spouses and family
189 members, and Utah veterans' organizations will be aware of benefits to which they are, or may
190 become, entitled;
191 (4) develop and maintain a system for determining how many veterans are employed by
192 the various government entities within the state and keeping track of them; and
193 (5) create and maintain, as completely as possible, a record of veterans in Utah.

194 Section 7. Section **71-8-4** is amended to read:

195 **71-8-4. Veterans' Advisory Council -- Membership -- Duties and responsibilities --**
196 **Per diem and expenses.**

- 197 (1) There is created a Veterans' Advisory Council whose purpose is to advise the director
198 of the [~~Office~~] Division of Veterans' Affairs on issues relating to veterans.
199 [~~(2) (a) The governor shall appoint seven members to the council.~~]
200 [~~(b) Council membership shall include:~~]
201 [~~(i) six veterans; and~~]
202 [~~(ii) one nonveteran.~~]
203 (2) The council shall consist of eleven voting members and one nonvoting member,
204 designated as follows:
205 (a) five members appointed by the governor to serve four-year terms:
206 (i) four veterans at large; and
207 (ii) a representative from the Office of the Governor;
208 (b) the director of the VA Health Care System or his designee;
209 (c) the director of the VA Benefits Administration Regional Office in Salt Lake City, or
210 his designee;
211 (d) a representative from the Veterans' Memorial Park Board for the duration of his
212 appointment to the board;
213 (e) the commanders of the three largest veterans service organizations in the state. Their

214 terms shall last as long as they hold the required office; and

215 [~~(c) The~~] (f) the director shall be a nonvoting member of the council.

216 (3) (a) Except as required by Subsection (3)(b), as terms of current council members
217 expire, the governor shall appoint each new ~~[member]~~ or reappointed member to a four-year term
218 commencing on July 1.

219 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time
220 of appointment or reappointment, adjust the length of terms to ensure that the terms of council
221 members are staggered so that approximately half of the council is appointed every two years.

222 (4) When a vacancy occurs in the membership for any reason, the governor shall appoint
223 a replacement [~~shall be appointed~~] for the unexpired term within 60 days of receiving notice.

224 (5) Members appointed by the governor may not serve more than two consecutive terms.

225 (6) (a) Any veterans' group or veteran may provide the [~~executive~~] division director with
226 a list of recommendations for members on the council.

227 (b) The [~~executive~~] division director shall provide the governor with the list of
228 recommendations for members to be appointed to the council.

229 (c) The governor shall make final appointments to the council by June 30 of any year in
230 which appointments are to be made under this chapter.

231 (7) The council shall elect a chair from among its [~~veteran~~] members every two years. The
232 chair shall be a veteran.

233 (8) (a) The council shall meet at least once every quarter.

234 (b) The director of the [~~Office~~] Division of Veterans' Affairs may convene additional
235 meetings, as necessary.

236 (9) The [~~office is~~] division shall provide staff to the council.

237 (10) [~~Four~~] Six voting members are a quorum for the transaction of business.

238 (11) The council shall:

239 (a) solicit input concerning veterans issues from veterans' groups throughout the state;

240 (b) report issues received to the director of the [~~Office~~] Division of Veterans' Affairs and
241 make recommendations concerning them;

242 (c) keep abreast of federal developments that affect veterans locally and advise the director
243 of them; and

244 (d) approve, by a majority vote, the use of monies generated from veterans' license plates

245 under Section 41-1a-408 for veterans' programs.

246 (12) (a) Members shall receive no compensation or benefits for their services, but may
247 receive per diem and expenses incurred in the performance of the member's official duties at the
248 rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

249 (b) Members may decline to receive per diem and expenses for their service.

250 Section 8. Section **71-9-1** is amended to read:

251 **71-9-1. Contract to provide assistance to veterans and their widows and children.**

252 The [~~director of the Department of Community and Economic Development~~] adjutant
253 general of the National Guard through the [~~Office~~] Division of Veterans' Affairs is authorized to
254 contract with the American Legion, the Disabled American Veterans, and the Veterans of Foreign
255 Wars of the United States, as organized in this state, to provide, especially in the outlying areas of
256 the state, assistance to veterans, their widows, and children as follows:

257 (1) to disseminate information regarding all laws applicable to veterans, their widows, and
258 children in the preparation, presentation, and prosecution of claims against the United States
259 arising by reason of service in the military, naval, or air services;

260 (2) to assist veterans, their widows, and children in the establishment of all rights and the
261 procurement of all benefits which may accrue to them under the laws of this state or of the United
262 States;

263 (3) to cooperate with any and all agencies and instrumentalities of this state or of the
264 United States having to do with the employment or reemployment of veterans;

265 (4) to cooperate with any and all agencies and instrumentalities of this state or of the
266 United States and make a representative and information available on a rotating basis in the
267 outlying areas of the state;

268 (5) to assist veterans in obtaining such preference for employment as may be authorized
269 by the laws of this state or of the United States; and

270 (6) to assist veterans, their widows, and children in obtaining emergency relief, and to that
271 end cooperate with such agencies and instrumentalities of this state or of the United States as have
272 been or may be established for the purpose of extending emergency relief.

273 Section 9. Section **71-9-2** is amended to read:

274 **71-9-2. Contracts subject to appropriation of funds.**

275 Any contract entered into under Section 71-9-1 shall expressly state that it is subject to the

276 appropriation of sufficient funds by the Legislature to carry out its terms and that the decision of
277 the [~~director of the Department of Community and Economic Development~~] adjutant general of
278 the National Guard in conjunction with the director of the Division of Veterans' Affairs as to
279 whether an appropriation is sufficient to carry out the terms of the contract is conclusive.

280 Section 10. Section **71-10-1** is amended to read:

281 **71-10-1. Definitions.**

282 As used in this chapter:

283 (1) "Active duty" means active military duty and does not include active duty for training,
284 initial active duty for training, or inactive duty for training.

285 (2) "Disabled veteran" means an individual who has:

286 (a) been separated or retired from the armed forces under honorable conditions; and

287 (b) established the existence of a service-connected disability or is receiving compensation,
288 disability retirement benefits, or pension because of a public statute administered by the federal
289 Department of Veterans Affairs or a military department.

290 (3) "Government entity" means the state [~~and~~], any county, municipality, special district,
291 or any other political subdivision or administrative unit of the state, including state institutions of
292 education.

293 (4) "Preference eligible" means:

294 (a) any individual who has served on active duty in the armed forces for more than 180
295 consecutive days, or was a member of a reserve component who served in a campaign or
296 expedition for which a campaign medal has been authorized and who has been separated under
297 honorable conditions;

298 (b) a disabled veteran with any percentage of disability;

299 (c) the unmarried widow or widower of a veteran;

300 (d) a purple heart recipient; or

301 (e) a retired member of the armed forces who retired below the rank of major or its
302 equivalent.

303 (5) "Veteran" means:

304 (a) an individual who has served on active duty in the armed forces for more than 180
305 consecutive days, or was a member of a reserve component who served in a campaign or

306 expedition for which a campaign medal has been authorized and who has been separated or retired

307 under honorable conditions; or

308 (b) any [person] individual incurring an actual service-related injury or disability in the line
309 of duty whether or not that person completed 180 consecutive days of active duty.

310 Section 11. Section **71-10-2** is amended to read:

311 **71-10-2. Veteran's preference.**

312 (1) Each government entity shall grant a veteran's preference [~~upon initial hiring~~] to each
313 preference eligible veteran, disabled veteran, or veteran as defined in Section 71-10-1 on any job
314 opening where the entity accepts applications from outside its own workforce or preference
315 eligible spouse according to the procedures and requirements of this chapter.

316 (2) The personnel officer of any government entity shall add to the score of a preference
317 eligible who receives a passing score on an examination, or any rating or ranking mechanism used
318 in selecting an individual for any career service position with the government entity:

319 (a) five percent of the total possible score, if he is a veteran;

320 (b) ten percent of the total possible score, if he is a disabled veteran or a purple heart
321 recipient; or

322 (c) in the case of a preference eligible spouse, widow, or widower, the same percentage
323 the qualifying veteran would have been entitled to.

324 (3) A preference eligible who applies for a position that does not require an examination,
325 or where examination results are other than a numeric score, shall be given preference in
326 interviewing and hiring for the position.

327 (4) If a reduction in forces or lay off occurs, preference in retention shall be given first to
328 a disabled veteran and then to a veteran. The preference shall only apply where the disabled
329 veteran or veteran has seniority, grade, and performance equal to or greater than that of a
330 nonveteran also affected by the reduction in forces or lay off.

331 (5) Each governmental entity shall provide an annual report to the director of the Division
332 of Veterans' Affairs by March 31 of each year detailing the following information for the previous
333 year:

334 (a) the number of individuals that applied for permanent employment;

335 (b) the number of individuals hired into permanent positions;

336 (c) the number of veterans that applied for permanent employment; and

337 (d) the number of veterans hired into permanent employment.

338 Section 12. Section **71-10-3** is amended to read:

339 **71-10-3. Willful failure to give preference a misdemeanor -- Enforcement --**

340 **Complaint procedure.**

341 [~~Any officers, agents, or representatives of a government entity who~~]

342 (1) The director of the Division of Veterans' Affairs shall establish polices and procedures
343 consistent with investigating and enforcing the application of veterans' preference in the hiring
344 practices of governmental entities. The division shall accept complaints from individuals who may
345 have been denied the benefits of this chapter.

346 (2) The division shall investigate each complaint submitted pursuant to this section. If the
347 director determines, as a result of the investigation, that the government entity has not complied
348 with the provisions of this chapter, the director shall attempt to resolve the complaint by making
349 reasonable efforts to ensure that the entity named in the complaint complies with the provisions
350 of this chapter.

351 (3) If the efforts of the director with respect to any complaints filed under this section do
352 not resolve the complaint, the director shall notify the individual who submitted the complaint of
353 the results of the investigation and that he may have other avenues under which to pursue his
354 claim.

355 (4) Any complaint filed with the division for an agency's failure to provide veterans
356 preference must be filed within 180 days of the alleged violation, and shall be in writing in a form
357 prescribed by the director.

358 (5) Any officer, agent, or representative of a government entity that is charged with
359 employment of people and who willfully fails to give preference as provided in this chapter is
360 guilty of a misdemeanor.

361 Section 13. Section **71-11-2** is amended to read:

362 **71-11-2. Definitions.**

363 As used in this chapter:

364 (1) "Administrator" means the State Nursing Home Administrator selected in accordance
365 with Section 71-11-5.

366 [~~(1)~~] (2) "Board" means the Veterans' Home Advisory Board.

367 [~~(2)~~] (3) "Department" means the Utah [~~Department of Health~~] National Guard.

368 (4) "Division" means the Division of Veterans' Affairs created in Section 71-8-2.

369 ~~[(3)] (5)~~ "Executive Director" means the ~~[director of the Utah Veterans' Home selected in~~
370 ~~accordance with Section 71-11-5]~~ adjutant general of the National Guard.

371 ~~[(4)] (6)~~ "Home" means the Utah Veterans' Home as established under this chapter.

372 ~~[(5)] "Office" means the Office of the Executive Director.]~~

373 ~~[(6)] (7)~~ "Veteran" shall have the same meaning as found in Subsection 71-10-1(5).

374 Section 14. Section **71-11-3** is amended to read:

375 **71-11-3. Establishment and construction -- Compliance with federal requirements.**

376 (1) There is established a Utah Veterans' Home, to be administered by the ~~[department]~~
377 division to provide nursing home care for veterans in Utah.

378 (2) The home shall:

379 (a) have at least an 80-bed capacity;

380 (b) be designed and constructed consistent with the requirements for federal funding under
381 38 U.S.C. Sec. 8131 et seq.; and

382 (c) be operated consistent with the requirements for per diem payments from the United
383 States Department of Veterans Affairs under 38 U.S.C. Sec. 1741 et seq.

384 Section 15. Section **71-11-4** is amended to read:

385 **71-11-4. Administration by Division of Veterans' Affairs.**

386 The ~~[department]~~ division shall be responsible for the supervision and operation of the
387 home.

388 Section 16. Section **71-11-5** is amended to read:

389 **71-11-5. Operation of home -- Rulemaking authority -- Selection of director.**

390 (1) The ~~[office]~~ division shall, subject to the approval of the executive director ~~[of the~~
391 ~~department]~~:

392 (a) establish appropriate criteria for the admission and discharge of residents subject to the
393 requirements in Section 71-11-6 and criteria set by the U.S. Department of Veterans' Affairs;

394 (b) establish a schedule of charges for residence in cases where residents have available
395 resources;

396 (c) establish standards for the operation of the home not inconsistent with standards set
397 by the United States Department of Veterans Affairs;

398 (d) make rules to implement this ~~[section]~~ chapter in accordance with Title 63, Chapter
399 46a, Utah Administrative Rulemaking Act;

400 (e) ensure that the home is licensed in accordance with Title 26, Chapter 21, Health Care
401 Facility [~~Licensure~~] Licensing and Inspection Act, and 38 U.S.C. Sec. 1742(a).

402 (2) In addition, the [~~office~~] division shall, after reviewing recommendations of the board,
403 appoint [~~a director~~] an administrator for the home.

404 Section 17. Section **71-11-6** is amended to read:

405 **71-11-6. Eligibility -- Admission requirements.**

406 (1) Application for admission shall be made to the [~~office~~] home administrator.

407 (2) Veterans and their spouses or surviving spouses who are residents of Utah and in need
408 of nursing home care may be admitted to the home.

409 (3) Preference shall be given to [~~those~~] veterans who are without adequate means of
410 support and unable due to wounds, disease, old age, or infirmity to properly maintain themselves.

411 Section 18. Section **71-11-7** is amended to read:

412 **71-11-7. Veterans' Home Advisory Board.**

413 (1) (a) There is created a Veterans' Home Advisory Board to act as a liaison between the
414 residents, members of the public, and the administration of the home.

415 (b) The board shall be responsible for interviewing candidates for the position of [~~director~~]
416 home administrator and making a recommendation to the [~~office~~] division.

417 (2) The board shall consist of the following seven members [~~appointed by the governor~~]:

418 (a) one resident of the home appointed by the governor;

419 (b) two members of the [~~Governor's~~] Veterans' Advisory Council, designated by the
420 governor, one of which shall specifically be designated as the board's representative to the council;

421 (c) [~~two representatives~~] one veteran at-large appointed by the governor;

422 (d) one representative from the [~~Veterans Hospital; and~~] VA Health Care System,
423 appointed by its director;

424 (e) a representative from the Health Department, appointed by its executive director; and

425 [~~(e)~~] (f) one representative from the Department of [~~Veterans~~] Veterans' Affairs regional
426 office.

427 (3) (a) Members shall serve for [~~three-year~~] four-year terms. [~~The initial appointment of~~
428 ~~three of the members to the board shall be for a term of two years. The decision of which terms~~
429 ~~shall be for two years shall be made by the governor at the time of appointment.] Except as
430 required by Subsection (3)(b), as terms of current board members expire, the governor shall~~

431 appoint each new or reappointed member to a four-year term commencing on July 1.

432 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time
433 of appointment or reappointment, adjust the length of terms to ensure that the terms of board
434 members are staggered so that approximately half of the board is appointed every two years.

435 (c) The governor shall make final appointments to the board by June 30 of any year in
436 which appointments are to be made under this chapter.

437 (4) Vacancies shall be filled by the governor within 60 days of receiving notice of a
438 vacancy, but only for the unexpired term of the vacated member.

439 (5) Members may not serve more than two consecutive terms.

440 (6) The board shall elect a chair annually from among its members at its first meeting after
441 July 1.

442 (7) The board shall meet at least quarterly.

443 (8) Four members of the board constitute a quorum for the transaction of business.

444 (9) The board shall provide copies of all minutes and an annual report of its activities by
445 June 30 of each year to the Veterans' Advisory Council created in Section 71-8-4.

446 (10) (a) (i) Members who are not government employees shall receive no compensation
447 or benefits for their services, but may receive per diem and expenses incurred in the performance
448 of the member's official duties at the rates established by the Division of Finance under Sections
449 63A-3-106 and 63A-3-107.

450 (ii) Members may decline to receive per diem and expenses for their service.

451 (b) State government officer and employee members who do not receive salary, per diem,
452 or expenses from their agency for their service may receive per diem and expenses incurred in the
453 performance of their official duties from the board at the rates established by the Division of
454 Finance under Sections 63A-3-106 and 63A-3-107.

455 Section 19. **Legislative intent.**

456 It is the intent of the Legislature that all personnel and any funds employed in the
457 administration of entities transferred by this legislation to the administration of the Division of
458 Veterans' Affairs be transferred with the entity responsibility to the division.

459 Section 20. **Effective date.**

460 This act takes effect on July 1, 2000.

Legislative Review Note
as of 1-26-00 3:04 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel