

Representative Val L. Peterson proposes the following substitute bill:

TITLE 39A - NATIONAL GUARD AND MILITIA ACT

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val L. Peterson

Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill recodifies Title 39, Militias and Armories, as Title 39A, National Guard and Militia Act.

Highlighted Provisions:

This bill:

- ▶ restructures Title 39, Militias and Armories, into Title 39A, National Guard and Militia Act;
- ▶ creates the following new chapters:
 - Chapter 1, Utah National Guard and Militia Act;
 - Chapter 2, State Armory Board;
 - Chapter 3, Utah National Guard;
 - Chapter 4, Utah State Defense Force;
 - Chapter 5, Utah Code of Military Justice;
 - Chapter 6, Utah Service Members Civil Relief Act;
 - Chapter 7, Morale, Welfare, and Recreation Program; and
 - Chapter 8, West Traverse Sentinel Landscape Act;
- ▶ clarifies that the State Defense Force is not subject to federal activation;
- ▶ specifies qualifications for the adjutant general and staff;



- 26 ▶ removes outdated language and provisions; and
- 27 ▶ makes technical and conforming changes.

28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

- 34 **31A-22-508**, as enacted by Laws of Utah 1985, Chapter 242
- 35 **53-2a-603**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
- 36 **59-12-104**, as last amended by Laws of Utah 2021, Chapters 280 and 367
- 37 **76-5-102.4**, as last amended by Laws of Utah 2017, Chapters 62 and 123
- 38 **78B-20-302**, as enacted by Laws of Utah 2016, Chapter 292
- 39 **78B-20-311**, as enacted by Laws of Utah 2016, Chapter 292

40 ENACTS:

- 41 **39A-1-101**, Utah Code Annotated 1953
- 42 **39A-1-102**, Utah Code Annotated 1953
- 43 **39A-1-203**, Utah Code Annotated 1953
- 44 **39A-2-104**, Utah Code Annotated 1953
- 45 **39A-3-101**, Utah Code Annotated 1953
- 46 **39A-3-104**, Utah Code Annotated 1953
- 47 **39A-3-105**, Utah Code Annotated 1953
- 48 **39A-3-106**, Utah Code Annotated 1953
- 49 **39A-3-109**, Utah Code Annotated 1953
- 50 **39A-5-201**, Utah Code Annotated 1953
- 51 **39A-6-102**, Utah Code Annotated 1953

52 RENUMBERS AND AMENDS:

- 53 **39A-1-201**, (Renumbered from 39-1-12, as last amended by Laws of Utah 2018,
- 54 Chapter 131)
- 55 **39A-1-202**, (Renumbered from 39-1-23, Utah Code Annotated 1953)
- 56 **39A-2-101**, (Renumbered from 39-2-1, as last amended by Laws of Utah 2010, Chapter

57 286)
58 **39A-2-102**, (Renumbered from 39-2-2, as last amended by Laws of Utah 2021, Chapter
59 89)
60 **39A-2-103**, (Renumbered from 39-2-9, Utah Code Annotated 1953)
61 **39A-3-102**, (Renumbered from 39-1-3, as last amended by Laws of Utah 2018, Chapter
62 131)
63 **39A-3-103**, (Renumbered from 39-1-9, as last amended by Laws of Utah 1988, Chapter
64 210)
65 **39A-3-107**, (Renumbered from 39-1-51, as last amended by Laws of Utah 2021,
66 Chapter 123)
67 **39A-3-108**, (Renumbered from 39-1-47, Utah Code Annotated 1953)
68 **39A-3-110**, (Renumbered from 39-1-40.5, as last amended by Laws of Utah 2015,
69 Chapter 70)
70 **39A-3-111**, (Renumbered from 39-1-50, as last amended by Laws of Utah 2013,
71 Chapter 237)
72 **39A-3-201**, (Renumbered from 39-1-63, as last amended by Laws of Utah 2015,
73 Chapter 65)
74 **39A-3-202**, (Renumbered from 39-1-65, as enacted by Laws of Utah 2019, Chapter
75 299)
76 **39A-3-203**, (Renumbered from 39-1-59, as repealed and reenacted by Laws of Utah
77 2016, Chapter 96)
78 **39A-3-204**, (Renumbered from 39-1-59.5, as enacted by Laws of Utah 2016, Chapter
79 96)
80 **39A-4-101**, (Renumbered from 39-1-1, as last amended by Laws of Utah 2018, Chapter
81 131)
82 **39A-4-102**, (Renumbered from 39-4-1, as last amended by Laws of Utah 1988, Chapter
83 210)
84 **39A-4-103**, (Renumbered from 39-4-9, Utah Code Annotated 1953)
85 **39A-4-104**, (Renumbered from 39-4-11, as last amended by Laws of Utah 1988,
86 Chapter 210)
87 **39A-4-105**, (Renumbered from 39-4-10, as last amended by Laws of Utah 1988,

88 Chapter 210)
89 **39A-4-106**, (Renumbered from 39-4-3, as last amended by Laws of Utah 1988, Chapter
90 210)
91 **39A-4-107**, (Renumbered from 39-4-8, Utah Code Annotated 1953)
92 **39A-4-108**, (Renumbered from 39-4-5, Utah Code Annotated 1953)
93 **39A-4-109**, (Renumbered from 39-4-12, as last amended by Laws of Utah 1988,
94 Chapter 210)
95 **39A-4-110**, (Renumbered from 39-4-7, Utah Code Annotated 1953)
96 **39A-4-111**, (Renumbered from 39-4-4, Utah Code Annotated 1953)
97 **39A-4-112**, (Renumbered from 39-1-8, Utah Code Annotated 1953)
98 **39A-5-101**, (Renumbered from 39-6-1, as last amended by Laws of Utah 2015, Chapter
99 70)
100 **39A-5-102**, (Renumbered from 39-6-2, as last amended by Laws of Utah 2015,
101 Chapters 70 and 83)
102 **39A-5-103**, (Renumbered from 39-6-6, as last amended by Laws of Utah 2008, Chapter
103 287)
104 **39A-5-104**, (Renumbered from 39-6-3, as enacted by Laws of Utah 1988, Chapter 210)
105 **39A-5-105**, (Renumbered from 39-6-5, as enacted by Laws of Utah 1988, Chapter 210)
106 **39A-5-106**, (Renumbered from 39-6-40, as last amended by Laws of Utah 1988,
107 Second Special Session, Chapter 9)
108 **39A-5-107**, (Renumbered from 39-6-7, as last amended by Laws of Utah 1989, Chapter
109 15)
110 **39A-5-108**, (Renumbered from 39-6-8, as enacted by Laws of Utah 1988, Chapter 210)
111 **39A-5-109**, (Renumbered from 39-6-4, as last amended by Laws of Utah 2018, Chapter
112 131)
113 **39A-5-110**, (Renumbered from 39-6-9, as enacted by Laws of Utah 1988, Chapter 210)
114 **39A-5-111**, (Renumbered from 39-6-10, as last amended by Laws of Utah 1989,
115 Chapter 15)
116 **39A-5-112**, (Renumbered from 39-6-11, as last amended by Laws of Utah 1988,
117 Second Special Session, Chapter 9)
118 **39A-5-113**, (Renumbered from 39-6-12, as enacted by Laws of Utah 1988, Chapter

119 210)
120 [39A-5-114](#), (Renumbered from 39-6-23, as enacted by Laws of Utah 1988, Chapter
121 210)
122 [39A-5-115](#), (Renumbered from 39-6-24, as enacted by Laws of Utah 1988, Chapter
123 210)
124 [39A-5-116](#), (Renumbered from 39-6-26, as enacted by Laws of Utah 1988, Chapter
125 210)
126 [39A-5-117](#), (Renumbered from 39-6-27, as last amended by Laws of Utah 2008,
127 Chapter 287)
128 [39A-5-118](#), (Renumbered from 39-6-28, as enacted by Laws of Utah 1988, Chapter
129 210)
130 [39A-5-119](#), (Renumbered from 39-6-114, as repealed and reenacted by Laws of Utah
131 2018, Chapter 131)
132 [39A-5-202](#), (Renumbered from 39-6-15, as last amended by Laws of Utah 2015,
133 Chapter 70)
134 [39A-5-203](#), (Renumbered from 39-6-16, as enacted by Laws of Utah 1988, Chapter
135 210)
136 [39A-5-204](#), (Renumbered from 39-6-109, as enacted by Laws of Utah 1988, Chapter
137 210)
138 [39A-5-205](#), (Renumbered from 39-6-108, as enacted by Laws of Utah 1988, Chapter
139 210)
140 [39A-5-206](#), (Renumbered from 39-6-20, as last amended by Laws of Utah 2008,
141 Chapter 287)
142 [39A-5-207](#), (Renumbered from 39-1-41.5, as last amended by Laws of Utah 1996,
143 Chapter 198)
144 [39A-5-208](#), (Renumbered from 39-6-19, as last amended by Laws of Utah 1989,
145 Chapter 15)
146 [39A-5-209](#), (Renumbered from 39-6-30, as enacted by Laws of Utah 1988, Chapter
147 210)
148 [39A-5-210](#), (Renumbered from 39-6-31, as last amended by Laws of Utah 1993,
149 Chapter 110)

150 **39A-5-211**, (Renumbered from 39-6-29, as enacted by Laws of Utah 1988, Chapter
151 210)
152 **39A-5-212**, (Renumbered from 39-6-35, as enacted by Laws of Utah 1988, Chapter
153 210)
154 **39A-5-213**, (Renumbered from 39-6-34, as enacted by Laws of Utah 1988, Chapter
155 210)
156 **39A-5-214**, (Renumbered from 39-6-22, as last amended by Laws of Utah 1989,
157 Chapter 15)
158 **39A-5-215**, (Renumbered from 39-6-33, as last amended by Laws of Utah 1989,
159 Chapter 15)
160 **39A-5-216**, (Renumbered from 39-6-32, as enacted by Laws of Utah 1988, Chapter
161 210)
162 **39A-5-217**, (Renumbered from 39-6-38, as enacted by Laws of Utah 1988, Chapter
163 210)
164 **39A-5-218**, (Renumbered from 39-6-41, as enacted by Laws of Utah 1988, Chapter
165 210)
166 **39A-5-219**, (Renumbered from 39-6-39, as enacted by Laws of Utah 1988, Chapter
167 210)
168 **39A-5-220**, (Renumbered from 39-6-42, as last amended by Laws of Utah 1989,
169 Chapter 15)
170 **39A-5-221**, (Renumbered from 39-6-43, as enacted by Laws of Utah 1988, Chapter
171 210)
172 **39A-5-222**, (Renumbered from 39-6-44, as enacted by Laws of Utah 1988, Chapter
173 210)
174 **39A-5-223**, (Renumbered from 39-6-45, as last amended by Laws of Utah 1989,
175 Chapter 15)
176 **39A-5-224**, (Renumbered from 39-6-46, as enacted by Laws of Utah 1988, Chapter
177 210)
178 **39A-5-225**, (Renumbered from 39-6-52, as enacted by Laws of Utah 1988, Chapter
179 210)
180 **39A-5-226**, (Renumbered from 39-6-47, as enacted by Laws of Utah 1988, Chapter

181 210)
182 [39A-5-227](#), (Renumbered from 39-6-53, as enacted by Laws of Utah 1988, Chapter
183 210)
184 [39A-5-228](#), (Renumbered from 39-6-54, as last amended by Laws of Utah 2008,
185 Chapter 287)
186 [39A-5-229](#), (Renumbered from 39-6-55, as last amended by Laws of Utah 1989,
187 Chapter 15)
188 [39A-5-230](#), (Renumbered from 39-6-56, as last amended by Laws of Utah 1989,
189 Chapter 15)
190 [39A-5-231](#), (Renumbered from 39-6-58, as last amended by Laws of Utah 2008,
191 Chapter 287)
192 [39A-5-232](#), (Renumbered from 39-6-59, as enacted by Laws of Utah 1988, Chapter
193 210)
194 [39A-5-233](#), (Renumbered from 39-6-61, as last amended by Laws of Utah 1994,
195 Chapter 12)
196 [39A-5-234](#), (Renumbered from 39-6-62, as last amended by Laws of Utah 1989,
197 Chapter 15)
198 [39A-5-235](#), (Renumbered from 39-6-37, as enacted by Laws of Utah 1988, Chapter
199 210)
200 [39A-5-236](#), (Renumbered from 39-6-63, as enacted by Laws of Utah 1988, Chapter
201 210)
202 [39A-5-237](#), (Renumbered from 39-6-64, as last amended by Laws of Utah 1988,
203 Second Special Session, Chapter 9)
204 [39A-5-238](#), (Renumbered from 39-6-65, as last amended by Laws of Utah 1988,
205 Second Special Session, Chapter 9)
206 [39A-5-239](#), (Renumbered from 39-6-107, as last amended by Laws of Utah 1993,
207 Chapter 110)
208 [39A-5-301](#), (Renumbered from 39-6-49, as last amended by Laws of Utah 1989,
209 Chapter 15)
210 [39A-5-302](#), (Renumbered from 39-6-14, as repealed and reenacted by Laws of Utah
211 2012, Chapter 60)

212 **39A-5-303**, (Renumbered from 39-6-110, as enacted by Laws of Utah 1988, Chapter
213 210)
214 **39A-5-304**, (Renumbered from 39-6-50, as enacted by Laws of Utah 1988, Chapter
215 210)
216 **39A-5-305**, (Renumbered from 39-6-51, as last amended by Laws of Utah 1988,
217 Second Special Session, Chapter 9)
218 **39A-5-306**, (Renumbered from 39-6-17, as last amended by Laws of Utah 1989,
219 Chapter 15)
220 **39A-6-101**, (Renumbered from 39-7-102, as enacted by Laws of Utah 1997, Chapter
221 306)
222 **39A-6-103**, (Renumbered from 39-7-119, as last amended by Laws of Utah 2008,
223 Chapter 382)
224 **39A-6-104**, (Renumbered from 39-7-104, as enacted by Laws of Utah 1997, Chapter
225 306)
226 **39A-6-105**, (Renumbered from 39-7-105, as enacted by Laws of Utah 1997, Chapter
227 306)
228 **39A-6-106**, (Renumbered from 39-7-106, as enacted by Laws of Utah 1997, Chapter
229 306)
230 **39A-6-107**, (Renumbered from 39-7-107, as enacted by Laws of Utah 1997, Chapter
231 306)
232 **39A-6-108**, (Renumbered from 39-7-108, as enacted by Laws of Utah 1997, Chapter
233 306)
234 **39A-6-109**, (Renumbered from 39-7-109, as enacted by Laws of Utah 1997, Chapter
235 306)
236 **39A-6-110**, (Renumbered from 39-7-110, as enacted by Laws of Utah 1997, Chapter
237 306)
238 **39A-6-111**, (Renumbered from 39-7-111, as enacted by Laws of Utah 1997, Chapter
239 306)
240 **39A-6-112**, (Renumbered from 39-7-112, as enacted by Laws of Utah 1997, Chapter
241 306)
242 **39A-6-113**, (Renumbered from 39-7-113, as last amended by Laws of Utah 2018,

243 Chapter 148)
244 **39A-6-114**, (Renumbered from 39-7-114, as last amended by Laws of Utah 2018,
245 Chapter 148)
246 **39A-6-115**, (Renumbered from 39-7-115, as last amended by Laws of Utah 2018,
247 Chapter 148)
248 **39A-6-116**, (Renumbered from 39-7-116, as enacted by Laws of Utah 1997, Chapter
249 306)
250 **39A-6-117**, (Renumbered from 39-7-117, as last amended by Laws of Utah 2018,
251 Chapter 148)
252 **39A-7-101**, (Renumbered from 39-9-101, as enacted by Laws of Utah 2014, Chapter
253 122)
254 **39A-7-102**, (Renumbered from 39-9-102, as enacted by Laws of Utah 2014, Chapter
255 122)
256 **39A-7-103**, (Renumbered from 39-9-103, as enacted by Laws of Utah 2014, Chapter
257 122)
258 **39A-7-104**, (Renumbered from 39-9-104, as enacted by Laws of Utah 2014, Chapter
259 122)
260 **39A-7-105**, (Renumbered from 39-9-105, as enacted by Laws of Utah 2014, Chapter
261 122)
262 **39A-8-101**, (Renumbered from 39-10-101, as enacted by Laws of Utah 2018, Chapter
263 216)
264 **39A-8-102**, (Renumbered from 39-10-102, as enacted by Laws of Utah 2018, Chapter
265 216)
266 **39A-8-103**, (Renumbered from 39-10-103, as enacted by Laws of Utah 2018, Chapter
267 216)
268 **39A-8-104**, (Renumbered from 39-10-104, as enacted by Laws of Utah 2018, Chapter
269 216)
270 **39A-8-105**, (Renumbered from 39-10-105, as last amended by Laws of Utah 2021,
271 Chapter 89)
272 REPEALS:
273 **39-1-2**, as last amended by Laws of Utah 2005, Chapter 65

- 274 [39-1-4](#), as last amended by Laws of Utah 2005, Chapter 65
- 275 [39-1-5](#), as last amended by Laws of Utah 1988, Chapter 210
- 276 [39-1-7](#), Utah Code Annotated 1953
- 277 [39-1-10](#), Utah Code Annotated 1953
- 278 [39-1-12.5](#), as last amended by Laws of Utah 1993, Chapter 110
- 279 [39-1-13](#), as last amended by Laws of Utah 1989, Chapter 22
- 280 [39-1-14](#), Utah Code Annotated 1953
- 281 [39-1-15](#), as last amended by Laws of Utah 2009, Chapter 388
- 282 [39-1-16](#), Utah Code Annotated 1953
- 283 [39-1-17](#), Utah Code Annotated 1953
- 284 [39-1-18](#), as last amended by Laws of Utah 2015, Chapter 83
- 285 [39-1-19](#), Utah Code Annotated 1953
- 286 [39-1-21](#), as last amended by Laws of Utah 2012, Chapter 369
- 287 [39-1-22](#), Utah Code Annotated 1953
- 288 [39-1-24](#), as last amended by Laws of Utah 2012, Chapter 215
- 289 [39-1-25](#), as last amended by Laws of Utah 2011, Chapter 336
- 290 [39-1-26](#), Utah Code Annotated 1953
- 291 [39-1-28](#), as last amended by Laws of Utah 1963, Chapter 61
- 292 [39-1-29](#), Utah Code Annotated 1953
- 293 [39-1-30](#), as last amended by Laws of Utah 1989, Chapter 22
- 294 [39-1-31](#), as last amended by Laws of Utah 1963, Chapter 61
- 295 [39-1-32](#), as last amended by Laws of Utah 2015, Chapter 83
- 296 [39-1-33](#), as last amended by Laws of Utah 1963, Chapter 61
- 297 [39-1-34](#), as last amended by Laws of Utah 1963, Chapter 61
- 298 [39-1-35](#), as last amended by Laws of Utah 1981, Chapter 174
- 299 [39-1-37](#), Utah Code Annotated 1953
- 300 [39-1-38](#), as last amended by Laws of Utah 1988, Chapter 210
- 301 [39-1-38.5](#), as last amended by Laws of Utah 1996, Chapter 198
- 302 [39-1-39](#), as last amended by Laws of Utah 1989, Chapter 15
- 303 [39-1-41](#), as last amended by Laws of Utah 2008, Chapter 287
- 304 [39-1-44](#), Utah Code Annotated 1953

- 305 [39-1-45](#), Utah Code Annotated 1953
- 306 [39-1-46](#), as last amended by Laws of Utah 1953, Chapter 63
- 307 [39-1-52](#), as last amended by Laws of Utah 1963, Chapter 61
- 308 [39-1-53](#), as last amended by Laws of Utah 2018, Chapter 148
- 309 [39-1-54](#), as last amended by Laws of Utah 2015, Chapter 391
- 310 [39-1-56](#), as last amended by Laws of Utah 1989, Chapter 15
- 311 [39-1-58](#), as last amended by Laws of Utah 2004, Chapter 359
- 312 [39-1-60](#), as last amended by Laws of Utah 1988, Second Special Session, Chapter 9
- 313 [39-1-62](#), as last amended by Laws of Utah 1983, Chapter 179
- 314 [39-2-7](#), as last amended by Laws of Utah 1989, Chapter 22
- 315 [39-4-2](#), Utah Code Annotated 1953
- 316 [39-4-6](#), Utah Code Annotated 1953
- 317 [39-4-13](#), as last amended by Laws of Utah 1988, Chapter 210
- 318 [39-5-1](#), as last amended by Laws of Utah 1997, Chapter 211
- 319 [39-5-2](#), as last amended by Laws of Utah 2013, Chapter 295
- 320 [39-5-3](#), as enacted by Laws of Utah 1955, Chapter 130
- 321 [39-6-18](#), as enacted by Laws of Utah 1988, Chapter 210
- 322 [39-6-21](#), as enacted by Laws of Utah 1988, Chapter 210
- 323 [39-6-36](#), as last amended by Laws of Utah 2014, Chapter 189
- 324 [39-6-48](#), as enacted by Laws of Utah 1988, Chapter 210
- 325 [39-6-57](#), as enacted by Laws of Utah 1988, Chapter 210
- 326 [39-6-111](#), as enacted by Laws of Utah 1988, Chapter 210
- 327 [39-6-112](#), as enacted by Laws of Utah 1988, Chapter 210
- 328 [39-6-113](#), as last amended by Laws of Utah 2018, Chapter 131
- 329 [39-7-101](#), as enacted by Laws of Utah 1997, Chapter 306
- 330 [39-7-103](#), as enacted by Laws of Utah 1997, Chapter 306
- 331 [39-8-101](#), as enacted by Laws of Utah 2006, Chapter 333
- 332 [39-8-102](#), as enacted by Laws of Utah 2006, Chapter 333
- 333 [39-9-106](#), as enacted by Laws of Utah 2014, Chapter 122
- 334 [39-9-107](#), as enacted by Laws of Utah 2014, Chapter 122

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

337 Section 1. Section **31A-22-508** is amended to read:

338 **31A-22-508. National Guard groups.**

339 (1) A policy of group life insurance may be issued [on the lives of members of the Utah
340 National Guard under Section [39-1-62](#)] to a group comprised solely of members of the Utah
341 National Guard if the group policy is issued to an association of members.

342 (2) The association is the policyholder to insure members of the Utah National Guard
343 for the benefit of persons other than the association or any of its officials.

344 (3) The premium for the policy shall be paid by the policyholder, either from the
345 association's own funds, or from charges collected from the insured members specifically for
346 the insurance.

347 Section 2. Section **39A-1-101** is enacted to read:

348 **TITLE 39A. NATIONAL GUARD AND MILITIA ACT**

349 **CHAPTER 1. ADMINISTRATION**

350 **Part 1. General Provisions**

351 **39A-1-101. National Guard and Militia Act.**

352 This title governs the Utah National Guard and unorganized militia in accordance with
353 Utah Constitution Article XV.

354 Section 3. Section **39A-1-102** is enacted to read:

355 **39A-1-102. Definitions.**

356 As used in this title:

357 (1) "Adjutant general" means the commanding general of the Utah National Guard as
358 appointed by the governor under Section [39A-1-201](#).

359 (2) "National Guard" means the Utah National Guard created in Section [39A-3-101](#)
360 and in accordance with Utah Constitution Article XV.

361 (3) "Utah State Defense Force" or "Defense Force" means the unorganized militia as
362 structured in Chapter 4 of this title.

363 Section 4. Section **39A-1-201**, which is renumbered from Section 39-1-12 is
364 renumbered and amended to read:

365 **Part 2. Adjutant General**

366 ~~[39-1-12].~~ **39A-1-201. Adjutant general -- Appointment -- Term --**

367 **Qualifications.**

368 (1) There shall be one adjutant general of the National Guard appointed by the
369 governor.

370 (2) The adjutant general is the commanding general of the Utah National Guard and the
371 Utah State Defense Force and holds office for a term of six years, unless terminated by
372 resignation, disability, age, in accordance with Subsection (6), or for cause [~~as determined by a~~
373 ~~military court or court-martial~~].

374 [~~(2)~~] (3) The [~~person~~] individual appointed to the office shall:

375 (a) be a citizen of Utah and meet the requirements provided in Title 32, United States
376 Code;

377 (b) be a federally recognized commissioned officer, with the rank of colonel or higher,
378 of the National Guard of the United States with no fewer than five years commissioned service
379 in the Utah National Guard; and

380 (c) as determined by the governor, have sufficient knowledge and experience to
381 command the Utah National Guard.

382 [~~(3)~~] (4) Active service in the armed forces of the United States may be included in the
383 requirement in Subsection [~~(2)~~] (3)(b), if the officer was a member of the Utah National Guard
384 when the officer entered that service.

385 (5) The adjutant general shall establish a succession plan consistent with Section
386 [53-2a-804](#) to ensure the continuity of command.

387 [~~(4)~~] (6) An officer is no longer eligible to hold the office of adjutant general after
388 attaining [~~66~~] the age of 64 years [~~of age~~].

389 (7) The adjutant general shall ensure the readiness, training, discipline, and operations
390 of the National Guard.

391 Section 5. Section **39A-1-202**, which is renumbered from Section 39-1-23 is
392 renumbered and amended to read:

393 [~~39-1-23~~]. **39A-1-202. Seal of adjutant general.**

394 The seal of the adjutant general shall be circular in form, containing an inner circle[;].
395 [~~within~~] Within the inner circle shall be a shield with "Utah" impressed [~~thereon~~] on the shield,
396 and between the circles shall be impressed "National Guard, Adjutant General."

397 Section 6. Section **39A-1-203** is enacted to read:

398 39A-1-203. Director of joint staff -- Assistant adjutants general -- Chief of staff
 399 **for the air force.**

400 (1) There is authorized an assistant adjutant general for the Army, an assistant adjutant
 401 general for the Air Force, a chief of staff for the Air Force, and a director of joint staff.

402 (2) The adjutant general, with the approval of the governor, may appoint assistant
 403 adjutant generals, a chief of staff for the Air Force, and a director of joint staff with pay from
 404 the state.

405 (3) The assistant adjutants general, the chief of staff for the Air Force, and the director
 406 of joint staff shall be at least a federally recognized field grade commissioned officer of the
 407 Utah National Guard with not less than five years military service in the armed forces of a state
 408 or of the United States, at least three of which shall have been commissioned in the Utah
 409 National Guard. The officers shall hold office at the pleasure of the adjutant general.

410 (4) The adjutant general may detail an officer without the required commissioned
 411 service in the Utah National Guard to a position in this section only with the written approval
 412 of the governor.

413 Section 7. Section **39A-2-101**, which is renumbered from Section 39-2-1 is
 414 renumbered and amended to read:

CHAPTER 2. STATE ARMORY BOARD

416 ~~[39-2-1].~~ **39A-2-101. State Armory Board -- Creation -- Members -- A body**
 417 **corporate -- Powers -- Expenses.**

418 (1) ~~[(a) The State Armory Board shall consist of]~~ There is created a three member State
 419 Armory Board with the following members:

420 (a) the governor~~[, the chair of the State Building Board];~~

421 (b) the executive director of the Department of Government Operations; and

422 (c) the adjutant general of the Utah National Guard, appointed in accordance with
 423 Section [39A-3-102](#).

424 ~~[(b) It shall be]~~ (2) The board is a body corporate with perpetual succession~~[-]~~ and the
 425 board's property is exempt from all taxes and assessments.

426 ~~[(c) It]~~ (3) The board may:

427 (a) have and use a common seal~~[, and under the name aforesaid may];~~

428 (b) sue and be sued~~[-and];~~

429 (c) contract and be contracted with[?];

430 (d) [~~It may~~] take and hold by purchase, gift, devise, grant, or bequest real and personal
431 property required for [~~its~~] the board's use[?]; and

432 (e) [~~It may also~~] convert property received by gift, devise, or bequest, and not suitable
433 for [~~its~~] the board's uses, into other property [so] as available, or into money.

434 [~~(2)~~] (4) The board shall have power to:

435 (a) borrow money for the purpose of [~~erecting arsenals and armories~~] providing
436 facilities, ranges, and training lands upon the sole credit of the real property to which [~~it~~] the
437 board has [~~the~~] legal title; and

438 (b) may secure [~~such~~] the loans by mortgage upon [~~such~~] the property[?].

439 [~~(i) the~~] (5) The mortgaged property shall be the sole security for [~~such~~] any loan[?;
440 and].

441 [~~(ii) no~~] (6) A deficiency judgment [~~shall~~] may not be made, rendered, or entered
442 against the board upon the foreclosure of [~~the~~] a mortgage[?], provided[~~, however,~~] that
443 property in one city [~~shall~~] may not be mortgaged for the purpose of obtaining money for the
444 erection of armories in any other place. [~~Said board shall be deemed a public corporation, and~~
445 its property shall be exempt from all taxes and assessments.]

446 [~~(3)~~] (7) A member may not receive compensation or benefits for the member's service,
447 but may receive per diem and travel expenses in accordance with:

448 (a) Section 63A-3-106;

449 (b) Section 63A-3-107; and

450 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
451 63A-3-107.

452 Section 8. Section 39A-2-102, which is renumbered from Section 39-2-2 is
453 renumbered and amended to read:

454 [~~39-2-2~~]. **39A-2-102. Responsibilities of State Armory Board.**

455 (1) The board shall supervise and control [~~the armories and arsenals~~] all facilities,
456 ranges, training lands, and all real property held or acquired for the military purposes of the
457 state.

458 (2) The board may:

459 (a) provide suitable [~~armories and arsenals~~] facilities, ranges, and training lands for the

460 different organizations of the National Guard;

461 (b) lease [~~buildings for armory and arsenal purposes~~] real property throughout the state
462 wherever necessary for the use of organizations of the National Guard and for the storage of
463 state and government property at a rental that the board considers reasonable;

464 (c) erect [~~armories and arsenals~~] facilities and ranges at places within the state that it
465 considers necessary upon lands to which it has acquired the legal title;

466 (d) expend military funds to acquire legal title to lands and to construct [~~armories and~~
467 ~~arsenals~~] facilities and ranges;

468 (e) sell and lease property that the board holds under Subsection (1) for purposes
469 consistent with the mission of the Utah National Guard; and

470 (f) conduct meetings and take official action in person or as necessary via electronic
471 means, including telephone or video teleconferencing, or a combination of these methods.

472 (3) (a) Subject to Subsection (3)(b), the board may take options for the purchase of any
473 premises under lease to the state for [~~armory and arsenal~~] National Guard purposes:

474 (i) at any time during the life of the lease; and

475 (ii) when the purchase is in the state's interest.

476 (b) An option is not binding upon the board until it is approved by the Legislature.

477 (4) (a) Before legally binding the state to sell or lease any [~~armory, army premises, or~~
478 ~~other~~] real property owned by the National Guard, the board shall submit a description of the
479 proposed sale to the Legislative Management Committee for its review and recommendations.

480 (b) Before legally binding the state to purchase any interest in real property, the board
481 shall submit a description of the proposed sale to the Legislative Management Committee for
482 its review and recommendations.

483 (c) The Legislative Management Committee shall review each proposal and may[:]
484 approve or disapprove the sale.

485 [~~(i) recommend that the board complete the purchase or sale; or]~~

486 [~~(ii) recommend that the board not complete the purchase or sale.]~~

487 (5) The proceeds from the sales and leases of [~~armories and army~~] real property
488 authorized by this section shall be appropriated to the State Armory Board to be applied toward
489 the acquisition and sale of real property, and the construction of new armories.

490 (6) Funds may be deposited into a public treasury investment fund to earn interest until

491 use.

492 Section 9. Section **39A-2-103**, which is renumbered from Section 39-2-9 is
493 renumbered and amended to read:

494 ~~[39-2-9].~~ **39A-2-103.** **Political subdivisions and state agencies may assist in**
495 **erecting facilities.**

496 ~~[The board of commissioners and city councils of cities shall have power to]~~ Any
497 political subdivision or state agency may appropriate from any funds [of the city] available for
498 general purposes [such sums as they may deem expedient for the purpose of assisting] funds to
499 assist the State Armory Board in the [erection of armories within their respective cities, and for
500 the] acquisition, construction, and maintenance of [armories located and maintained therein,
501 and in all cities where waterworks and an electric light plant are owned by the city the water
502 and electric light used in armories maintained therein may at the discretion of the city be
503 furnished without cost] Utah National Guard facilities and infrastructure.

504 Section 10. Section **39A-2-104** is enacted to read:

505 **39A-2-104.** **Use of armories by veterans organizations permitted.**

506 Federally chartered veterans organizations have the right to the use of armories owned
507 or leased by the state at no charge, provided that the use does not interfere with the mission of
508 the Utah National Guard as determined by the adjutant general.

509 Section 11. Section **39A-3-101** is enacted to read:

CHAPTER 3. UTAH NATIONAL GUARD

Part 1. National Guard

512 **39A-3-101.** **Utah National Guard -- Creation.**

513 (1) There is created the Department of the Utah National Guard.

514 (2) The Utah National Guard is commanded by an adjutant general and consists of the
515 following:

516 (a) the joint force headquarters;

517 (b) the Utah Army National Guard, commanded by an assistant adjutant general for the
518 Army;

519 (c) the Utah Air National Guard, commanded by an assistant adjutant general for the
520 Air Force; and

521 (d) the Utah State Defense Force as organized in Title 39A, Chapter 4, Utah State

522 Defense Force.

523 (3) The numerical strength, composition, distribution, organization, arms, uniforms,
524 equipment, training, and discipline of the National Guard shall be prescribed by the governor in
525 conformity with the laws and regulations of the United States and the laws of this state.

526 (4) The location of units including headquarters, when not otherwise prescribed by
527 federal law, shall be fixed by the governor on the recommendation of the adjutant general.

528 Section 12. Section **39A-3-102**, which is renumbered from Section 39-1-3 is
529 renumbered and amended to read:

530 **[39-1-3]. 39A-3-102. Governor commander in chief -- Powers and duties.**

531 (1) The governor by virtue of the governor's office shall be commander in chief of the
532 Utah National Guard [~~and of the unorganized militia, and of any portions of the unorganized~~
533 ~~militia which may be organized~~].

534 (2) The governor:

535 (a) is authorized to issue all orders, rules and regulations necessary to conform the
536 Utah National Guard to Title 32 of the United States Code in its organization, government,
537 discipline, maintenance, training, equipment, and regulations;

538 (b) shall appoint and commission all officers and select all warrant officers, subject to
539 the provisions of Title 32 of the United State Code; [~~provided, that any appointee failing to~~
540 ~~receive federal recognition after having been notified by the National Guard Bureau shall revert~~
541 ~~to status occupied before the appointment;~~]

542 [~~(c) shall determine and fix the home station and location of the various units of the~~
543 ~~Utah National Guard;~~]

544 [~~(d)~~] (c) shall provide [~~armories, warehouses, maintenance and repair shops, hangars,~~
545 ~~small arms, artillery and aircraft ranges, campsites, concentration areas, training facilities,~~
546 ~~military reservations and arsenals~~] facilities, ranges, and training lands as required for
547 [~~organizations of~~] the Utah National Guard; and

548 [~~(e) shall furnish suitable offices, or office space for regular army personnel assigned to~~
549 ~~duties with the Utah National Guard, the expenses of which may be paid out of the state~~
550 ~~military appropriations;~~]

551 (d) may order the National Guard into active service as necessary.

552 (3) Notwithstanding Subsection (2)(b), an appointee who fails to receive federal

553 recognition after being notified by the National Guard of the appointment shall revert to the
554 status occupied before the appointment.

555 Section 13. Section **39A-3-103**, which is renumbered from Section 39-1-9 is
556 renumbered and amended to read:

557 ~~[39-1-9].~~ **39A-3-103. National Guard subject to call by United States.**

558 (1) The National Guard [~~of this state~~] is at all times subject to the call of the President
559 of the United States.

560 (2) When called into the service of the United States, [~~it~~] the National Guard is
561 governed by the applicable laws and military regulations of the United States.

562 [~~(2)~~] (3) The National Guard and its members shall attend [drills, encampments, and
563 maneuvers as the president directs] military training as required.

564 Section 14. Section **39A-3-104** is enacted to read:

565 **39A-3-104. Service members -- Appointment and promotion.**

566 (1) All officers of the National Guard shall be appointed by the governor and receive a
567 state commission.

568 (2) The power of appointment may be delegated to the adjutant general, and further
569 delegated as the adjutant general considers necessary.

570 (3) Appointments are subject to approval as prescribed by the laws of the United States
571 or related rules or regulations governing the National Guard.

572 (4) The appointment, promotion, and withdrawal of a federal commission shall be
573 made in a manner consistent with all applicable federal policies, rules, instructions, or
574 regulations.

575 (5) The withdrawal of a state commission shall be made in accordance with National
576 Guard regulations in effect at the time of consideration for the withdrawal.

577 (6) The appointment, promotion, and reduction of enlisted personnel shall be made in a
578 manner consistent with all applicable federal policies, rules, instructions, or regulations.

579 Section 15. Section **39A-3-105** is enacted to read:

580 **39A-3-105. General officer salary and benefits.**

581 (1) Full-time, state employed general officers or officers appointed to a general officer
582 position shall receive a salary that makes the total federal and state compensation at least
583 commensurate with the pay and allowances for their military grade or assigned position, time

584 in grade, and time in service as established in the United States Department of Defense Finance
585 and Accounting Services annual pay and allowances chart.

586 (2) General officers appointed to state employment shall receive the benefits and
587 protections in Section 39-1-36 for the term of the appointment.

588 Section 16. Section 39A-3-106 is enacted to read:

589 **39A-3-106. State active duty orders.**

590 (1) Orders for state duty may be oral or written.

591 (2) Written orders shall be issued by the governor or the adjutant general.

592 (3) An oral order may be delivered by an officer or noncommissioned officer.

593 Section 17. Section 39A-3-107, which is renumbered from Section 39-1-51 is
594 renumbered and amended to read:

595 ~~[39-1-51].~~ **39A-3-107. Pay and benefits of National Guard members on state**
596 **active duty.**

597 (1) When called into the service of the state and not in the service of the United States,
598 the members of the National Guard shall:

599 (a) receive at least the same pay and allowance as members of the regular [~~army~~] Army
600 or regular [~~air force~~] Air Force of like [~~rank and length of~~] pay grade and time in service; and

601 (b) elect to:

602 (i) receive medical, dental, disability, or death benefits equal to those received by
603 full-time, permanent state employees; or

604 (ii) maintain any medical, dental, disability, or death benefits already in place[~~; and~~].

605 [~~(c) receive one ration per day.~~]

606 (2) The state may not make payments to members of the National Guard for service for
607 which the United States government makes payment.

608 Section 18. Section 39A-3-108, which is renumbered from Section 39-1-47 is
609 renumbered and amended to read:

610 ~~[39-1-47].~~ **39A-3-108. Military property exempt from civil process.**

611 [~~All military~~] Military property issued to or owned by members of the National Guard
612 [~~shall be~~] is exempt from all civil process.

613 Section 19. Section 39A-3-109 is enacted to read:

614 **39A-3-109. Loss of property -- Liability.**

615 (1) When Utah National Guard federal property is destroyed, damaged, or lost due to
616 the failure of a service member to perform the duties required by law or regulation, the adjutant
617 general may assess financial liability to the service member.

618 (2) Within established law and regulation, the adjutant general may require the service
619 member to reimburse the federal government for all or part of the loss, whether the service
620 member is in federal status, state status, or off duty.

621 Section 20. Section **39A-3-110**, which is renumbered from Section 39-1-40.5 is
622 renumbered and amended to read:

623 **[39-1-40.5]. 39A-3-110. Utah Code of Military Justice -- Procedures --**
624 **Jurisdiction.**

625 (1) [~~Title 39, Chapter 6, Utah Code of Military Justice~~] Title 39A, Chapter 5, is
626 adopted as the Utah Code of Military Justice[~~, which may also be referred to as the UtCMJ~~].

627 (2) The [~~UtCMJ~~] Utah Code of Military Justice sets forth offenses which, if committed
628 by personnel of the Utah National Guard serving under this title or Title 32, United States
629 Code, are punishable as [~~the Utah Military Court~~] a military court directs [~~under regulations~~
630 ~~made and published under the UtCMJ~~] in accordance with Chapter 5, Part 2, Military Courts
631 and Part 3, Military Punishments.

632 (3) [~~The Utah Military Court is a court of the state, convened under orders issued by~~
633 ~~the governor or the adjutant general.~~] Judges of [~~the~~] a military court may issue summons,
634 executions, and other process. The process shall be served by county sheriffs, at the expense of
635 the state.

636 (4) Judgments for fines or forfeitures may be docketed in the same manner as district
637 court judgments in each county, and without costs.

638 (5) Appeals shall be taken to the Court of Appeals.

639 (6) Sentences of [~~the Utah Military Court~~] a military court shall be served in a county
640 jail. Costs incurred by the county shall be paid out of the General Fund of the state.

641 (7) Certification as counsel for prosecution or defense, or as a judge of [~~the Utah~~
642 ~~Military Court~~] a military court, is under orders issued by the adjutant general, and is limited to
643 attorneys who are members of the Utah State Bar and are serving as judge advocates in the
644 Utah National Guard.

645 (8) A [~~defendant~~] service member may retain, at no cost to the state or National Guard,

646 civilian counsel to represent ~~[him]~~ the service member before ~~[the Utah Military Court]~~ a
647 military court.

648 (9) ~~[The Utah Military Court]~~ A military court may impose fines not exceeding \$2,500,
649 restitution to victims, statutory surcharges, and may issue all writs and judgments for the
650 execution of any ~~[of them]~~ processes.

651 (10) When consistent with the Utah Manual for Military Courts, the Utah Rules of
652 Criminal Procedure apply ~~[in Utah Military Courts]~~.

653 Section 21. Section **39A-3-111**, which is renumbered from Section 39-1-50 is
654 renumbered and amended to read:

655 ~~[39-1-50]~~. **39A-3-111. Military court -- Concurrent prosecutorial jurisdiction**
656 **with county or district attorney.**

657 (1) The county attorney or district attorney, as appropriate under Sections [17-18a-202](#)
658 and [17-18a-203](#), of the county where an offense under the Utah Code of Military Justice is
659 committed has concurrent jurisdiction with ~~[the Utah Military Court]~~ a military court to
660 prosecute the accused ~~[person]~~ individual at the expense of the county.

661 (2) Charges regarding the offense may not be filed in a military court until the
662 appropriate county attorney or district attorney has reviewed and declined to prosecute the
663 offense.

664 Section 22. Section **39A-3-201**, which is renumbered from Section 39-1-63 is
665 renumbered and amended to read:

666 **Part 2. Service Member Benefits**

667 ~~[39-1-63]~~. **39A-3-201. Tuition and fees assistance for Utah National Guard**
668 **members -- Use and allocation -- Appropriation.**

669 (1) (a) As used in this section, "fees" means general course fees, in addition to tuition,
670 that are:

671 (i) imposed by an institution of higher education; and
672 (ii) required to be paid by a student to engage in a course of study at the institution of
673 higher education.

674 (b) "Fees" does not include a special course fee.

675 (2) The Utah National Guard may provide tuition and fees assistance to a member of
676 the Utah National Guard for study at an institution of higher education, subject to the following

677 requirements:

678 (a) the individual [~~must~~] shall be, at the time the individual receives the assistance, an
679 active member of the Utah National Guard; and

680 (b) the assistance is for tuition and fees only and may not be more than the resident
681 tuition and fees for the actual course of postsecondary study engaged in by the individual.

682 (3) (a) Tuition and fees assistance shall be awarded [~~for each academic year~~] as the
683 adjutant general considers necessary.

684 (b) An individual may apply to the adjutant general of the state for assistance for each
685 year during which the individual is an active member of the Utah National Guard.

686 [~~(c) In awarding assistance, the adjutant general shall consider the recruitment and~~
687 ~~retention needs of the Utah National Guard.]~~

688 (c) The adjutant general may recoup funds if a recipient fails to meet the requirements
689 of the program.

690 (4) The adjutant general of the state shall pay [~~the~~] tuition and fees assistance directly
691 to [~~an~~] the institution of higher education from the funds appropriated.

692 (5) The adjutant general of the state shall establish regulations, procedures, forms, and
693 reports necessary to administer the allocation of assistance and payment of funds under this
694 section.

695 [~~(6) The adjutant general of the state shall include a request each year for funds for this~~
696 ~~program in the annual budget for the Utah National Guard.]~~

697 [~~(7) An individual who transfers from the Select Reserve to the Utah National Guard is~~
698 ~~not eligible for the tuition and fees assistance in this section for one year from the date of~~
699 ~~transfer.]~~

700 (6) The adjutant general may use no more than 10% of the funds for administration of
701 the program as the adjutant general considers necessary.

702 Section 23. Section **39A-3-202**, which is renumbered from Section 39-1-65 is
703 renumbered and amended to read:

704 [~~39-1-65~~]. **39A-3-202. Pay and care of soldiers and airmen disabled while on**
705 **state active duty.**

706 (1) (a) Before a servicemember may be considered disabled in accordance with this
707 section, the Adjutant General shall determine whether the servicemember's illness, injury, or

708 disease was contracted or occurred through the fault or negligence of the servicemember. If the
709 servicemember is determined to be at fault for an injury or developed a disability through his or
710 her own negligent actions, the servicemember is not entitled to any care, pension, or benefit in
711 accordance with this section.

712 (b) Notwithstanding Subsection (1)(a) the servicemember may be eligible for benefits
713 in accordance with Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah
714 Occupational Disease Act.

715 (2) A member of the Utah National Guard or Utah State Defense Force who is disabled
716 through illness, injury, or disease contracted or incurred while on state active duty or while
717 reasonably proceeding to or returning from duty is eligible to receive workers' compensation
718 benefits in accordance with Title 34A, Chapter 2, Workers' Compensation Act.

719 (3) (a) If the disability temporarily incapacitates the servicemember from pursuing the
720 servicemember's usual business or occupation, the servicemember is eligible to receive
721 workers' compensation benefits in accordance with Title 34A, Chapter 2, Workers'
722 Compensation Act, and Chapter 3, Utah Occupational Disease Act.

723 (b) For the duration of the servicemember's inability to pursue a business or
724 occupation, the [~~Adjutant General~~] adjutant general shall provide compensation [~~equivalent to~~
725 ~~the difference between~~] so that the total compensation, including the disability compensation
726 received under Subsection (3)(a) [and the total pay and allowances under state active duty as
727 provided in Section 39-1-51.] is commensurate with the injured service member's lost pay. The
728 adjutant general shall consider lost civilian and military pay in the compensation.

729 (4) A servicemember who is permanently disabled, shall receive pensions and benefits
730 from the state that [~~persons~~] individuals under like circumstances in the Armed Forces of the
731 United States receive from the United States.

732 (5) If a servicemember dies as a result of an injury, illness, or disease contracted or
733 incurred while on state active duty or while reasonably proceeding to or returning from active
734 duty, the surviving spouse, minor children, or dependent parents of the servicemember shall
735 receive compensation as directed in Section [~~39-1-59~~] 39A-3-203.

736 (6) Costs incurred by reason of this section shall be paid out of the funds available to
737 the Utah National Guard.

738 (7) The [~~Adjutant General~~] adjutant general, with the approval of the governor, shall

739 make and publish regulations to implement this section.

740 (8) Nothing in this section shall in any way limit or condition any other payment to a
741 servicemember that the law allows.

742 Section 24. Section **39A-3-203**, which is renumbered from Section 39-1-59 is
743 renumbered and amended to read:

744 ~~[39-1-59].~~ **39A-3-203. Compensation for injury or death.**

745 Within 72 hours of the reported death of a member of the National Guard on state
746 active duty, the state shall provide a death gratuity payment of \$100,000 to:

747 (1) the ~~[person]~~ individual designated as the recipient of the member's unpaid pay and
748 allowances in the member's service record; or

749 (2) if no one is designated, the designated ~~[person]~~ individual cannot be found, or the
750 designated ~~[person]~~ individual has predeceased the member, the member's heirs in accordance
751 with Title 75, Chapter 2, Part 1, Intestate Succession.

752 Section 25. Section **39A-3-204**, which is renumbered from Section 39-1-59.5 is
753 renumbered and amended to read:

754 ~~[39-1-59.5].~~ **39A-3-204. National Guard Death Benefit Restricted Account.**

755 (1) There is created within the General Fund a restricted account known as "National
756 Guard Death Benefit Account."

757 (2) (a) The restricted account shall be funded from funds appropriated by the
758 Legislature.

759 (b) Funds in the restricted account may only be used to pay the death benefit authorized
760 in Section ~~[39-1-59]~~ 39A-3-204.

761 (c) The restricted account may accrue interest which shall be deposited into the
762 restricted account.

763 (d) At the close of any fiscal year, any balance in the fund in excess of \$2,000,000 shall
764 be transferred to the General Fund.

765 Section 26. Section **39A-4-101**, which is renumbered from Section 39-1-1 is
766 renumbered and amended to read:

767 **CHAPTER 4. UTAH STATE DEFENSE FORCE**

768 ~~[39-1-1].~~ **39A-4-101. Utah State Defense Force -- How constituted.**

769 (1) ~~[A]~~ Unless exempt under Subsection (2), all able-bodied citizens, and all

770 able-bodied ~~[persons]~~ individuals of foreign birth who have declared their intention to become
 771 citizens, ~~[who]~~ are 18 years ~~[of age]~~ old or older and younger than ~~[66]~~ 64 years ~~[of age, who]~~
 772 old, and are residents of this state, constitute the ~~[militia, subject to the following exemptions:]~~
 773 Utah State Defense Force.

774 (2) Individuals exempt from Subsection (1) include:

775 (a) ~~[persons exempted]~~ individuals exempted from military service by laws of the
 776 United States;

777 (b) ~~[persons exempted]~~ individuals exempted from military service by the laws of this
 778 state;

779 (c) all ~~[persons]~~ individuals who have been honorably discharged from the ~~[army, air~~
 780 ~~force, navy, marines, coast guard]~~ armed forces, or volunteer forces of the United States;

781 (d) active members of any regularly organized fire or police department in any city or
 782 town, but ~~[no]~~ a member of the active ~~[militia is]~~ defense force may not be relieved from duty
 783 because ~~[of his joining]~~ the individual joined any volunteer fire company or department; ~~[and]~~

784 (e) judges and clerks of courts of record~~;~~;

785 (f) state and county civil officers holding office by election~~;~~;

786 (g) state officers appointed by the governor for a specified term of office~~;~~;

787 (h) ministers of the gospel~~;~~; and

788 (i) practicing physicians~~;~~~~superintendents;~~ and hospital officers and assistants ~~[of~~
 789 ~~hospitals and prisons and jails].~~

790 ~~[(2)]~~ (3) All ~~[exempted persons, except those enumerated in Subsections (1)(a) through~~
 791 ~~(e);]~~ individuals described in Subsection (1) are liable to military duty in case of war,
 792 insurrection, invasion, tumult, riot, or public disaster, or imminent danger of any of these, or
 793 after ~~[they have]~~ voluntarily ~~[enlisted]~~ enlisting in the National Guard of this state.

794 Section 27. Section **39A-4-102**, which is renumbered from Section 39-4-1 is
 795 renumbered and amended to read:

796 ~~[39-4-1].~~ **39A-4-102. Governor authorized to organize Utah State Defense**
 797 **Force.**

798 (1) The governor, by virtue of the governor's office, may organize and maintain ~~[within~~
 799 ~~this state, under regulations the United States may prescribe for discipline in training, military~~
 800 ~~forces the governor considers necessary to defend this state]~~ the Utah State Defense Force.

801 (2) [~~These forces shall~~] The Defense Force may be composed of officers commissioned
 802 or assigned, and able-bodied citizens of the state who volunteer for service, supplemented if
 803 necessary by [~~persons in the militia~~] individuals enrolled by draft or otherwise as provided by
 804 law.

805 (3) [~~These forces~~] The Defense Force shall be additional to and distinct from the
 806 National Guard [~~and shall be known as the Utah State Defense Force. These forces may be~~
 807 ~~uniformed~~].

808 (4) The Defense Force may have prescribed uniforms.

809 (5) If ordered to active service by the governor, the Defense Force shall be under the
 810 command of the adjutant general.

811 Section 28. Section **39A-4-103**, which is renumbered from Section 39-4-9 is
 812 renumbered and amended to read:

813 [~~39-4-9~~]. **39A-4-103. Qualifications of members.**

814 [~~No person shall~~] An individual may not be commissioned or enlisted in [such forces]
 815 the Defense Force who:

816 (1) is not a citizen of the United States; or [~~who~~]

817 (2) has been expelled or dishonorably discharged from any military [~~or naval~~
 818 ~~organization of this state, or of another state, or of the United States~~] service.

819 Section 29. Section **39A-4-104**, which is renumbered from Section 39-4-11 is
 820 renumbered and amended to read:

821 [~~39-4-11~~]. **39A-4-104. Term of force enlistment -- Oaths.**

822 [~~A person~~] (1) An individual may not be enlisted in the Defense Force for more than
 823 one year, but an enlistment may be renewed.

824 (2) The oath to be taken upon enlistment in the [~~forces~~] Defense Force shall be
 825 substantially in the form prescribed for enlisted [~~men~~] individuals of the National Guard,
 826 substituting the words, "Utah State Defense Force," where necessary.

827 Section 30. Section **39A-4-105**, which is renumbered from Section 39-4-10 is
 828 renumbered and amended to read:

829 [~~39-4-10~~]. **39A-4-105. Oaths of force officers.**

830 The oath to be taken by officers commissioned in the [~~forces~~] Defense Force shall be
 831 substantially in the form prescribed for officers of the National Guard, but substituting the

832 words "Utah State Defense Force," where necessary.

833 Section 31. Section **39A-4-106**, which is renumbered from Section 39-4-3 is
834 renumbered and amended to read:

835 ~~[39-4-3].~~ **39A-4-106. Compensation of force members.**

836 (1) ~~[Every member]~~ Members of the Utah State Defense Force, when called into active
837 service by the governor, shall receive compensation as prescribed by the governor.

838 (2) The compensation may not exceed the rate of pay ~~[under law]~~ prescribed for
839 officers and other members of the National Guard when called into active service of the state
840 by the governor.

841 Section 32. Section **39A-4-107**, which is renumbered from Section 39-4-8 is
842 renumbered and amended to read:

843 ~~[39-4-8].~~ **39A-4-107. No organizations to be enlisted as a unit.**

844 ~~[No]~~ A civil organization, society, club, post, order, fraternity, association, brotherhood,
845 body, union, league, or other combination of ~~[persons]~~ individuals or civil group ~~[shall be~~
846 enlisted in such forces] may not enlist in the Defense Force as an organization, detachment,
847 company, or unit.

848 Section 33. Section **39A-4-108**, which is renumbered from Section 39-4-5 is
849 renumbered and amended to read:

850 ~~[39-4-5].~~ **39A-4-108. Service outside state prohibited -- Exceptions.**

851 ~~[Such forces shall]~~ (1) The Defense Force may not be required to serve outside the
852 boundaries of this state ~~[except: (1) Upon the request of the governor of another state,]~~ unless
853 the governor ~~[of this state may, in his discretion, order any portion or all of such forces to assist~~
854 the military or police forces of such other state who are actually engaged in defending such
855 other state. Such forces], in response to a request from the governor of another state through
856 the Emergency Management Assistance Compact, orders the Defense Force to assist outside
857 the state.

858 (2) The Defense Force may be recalled by the governor at ~~[his discretion]~~ any time.

859 ~~[(2) Any organization, unit or detachment of such forces, upon order of the officer in~~
860 immediate command thereof, may continue in fresh pursuit of insurrectionists, saboteurs,
861 enemies or enemy forces beyond the borders of this state into another state until they are
862 apprehended or captured by such organization, unit or detachment or until the military or police

863 forces of the other state or the forces of the United States have had a reasonable opportunity to
 864 take up the pursuit or to apprehend or capture such persons; provided, such other state shall
 865 have given authority by law for such pursuit by such forces of this state. Any such person who
 866 shall be apprehended or captured in such other state shall without unnecessary delay be
 867 surrendered to the military or police forces of the state in which he is taken or to the United
 868 States, but such surrender shall not constitute a waiver by this state of its right to extradite or
 869 prosecute such persons for any crime committed in this state.]

870 Section 34. Section **39A-4-109**, which is renumbered from Section 39-4-12 is
 871 renumbered and amended to read:

872 ~~[39-4-12].~~ **39A-4-109. Military court law and rules of National Guard**
 873 **applicable.**

874 ~~[(1)]~~ When the ~~[forces]~~ Defense Force or any part of ~~[them are]~~ it is ordered ~~[out for]~~
 875 to active service ~~[or are serving as members of the Utah State Defense Force, the]~~ Chapter 5,
 876 Utah Code of Military Justice, as it applies to the ~~[state]~~ National Guard, and regulations
 877 prescribed under it apply to the Utah State Defense Force.

878 ~~[(2) Members of the Utah State Defense Force are privileged from arrest under Section~~
 879 ~~39-1-54, when in state service.]~~

880 ~~[(3) Persons serving in the Utah State Defense Force are, during this service, exempt~~
 881 ~~from posse comitatus and from jury duty.]~~

882 Section 35. Section **39A-4-110**, which is renumbered from Section 39-4-7 is
 883 renumbered and amended to read:

884 ~~[39-4-7].~~ **39A-4-110. State Defense Force not subject to United States military**
 885 **service -- Members not exempt from United States military service.**

886 ~~[Nothing in this act shall]~~ (1) This act may not be construed as authorizing [such
 887 forces, or any part thereof] the Defense Force to be called, ordered or in any manner drafted, as
 888 such into the military service of the United States~~[, but no person shall].~~

889 (2) An individual is not, by reason of [his] enlistment or commission in [any such
 890 forces be] the Defense Force, exempted from military service under any law of the United
 891 States.

892 Section 36. Section **39A-4-111**, which is renumbered from Section 39-4-4 is
 893 renumbered and amended to read:

894 ~~[39-4-4].~~ 39A-4-111. **Governor may requisition arms and equipment from**
 895 **secretary of defense.**

896 For the use of ~~[such forces]~~ the Defense Force, the governor is authorized to requisition
 897 from the secretary of ~~[war such arms]~~ defense arms, ammunition, and equipment ~~[as may be in~~
 898 ~~possession of and can be spared by the war department;]~~ and to make the facilities and
 899 equipment of the National Guard available to ~~[such forces the facilities of state armories and~~
 900 ~~their equipment and such other state premises and property as may be available]~~ the Defense
 901 Force.

902 Section 37. Section **39A-4-112**, which is renumbered from Section 39-1-8 is
 903 renumbered and amended to read:

904 ~~[39-1-8].~~ 39A-4-112. **Governor may proclaim martial law.**

905 (1) Whenever the ~~[militia]~~ Defense Force or any portion ~~[thereof;]~~ of the Defense
 906 Force is called into active service, the governor may, by proclamation, declare all or any part of
 907 any county, city or town in which the troops are serving to be under martial law~~[-and when].~~

908 (2) When the ~~[militia shall be on]~~ Defense Force is in active service ~~[as herein~~
 909 ~~provided]~~, the commanding officer ~~[thereof]~~ and his subordinates may cooperate with the civil
 910 authorities ~~[or take entire charge of the situation as in the judgment of the commanding officer~~
 911 ~~the exigencies of the case may require]~~ as directed by the adjutant general.

912 Section 38. Section **39A-5-101**, which is renumbered from Section 39-6-1 is
 913 renumbered and amended to read:

914 **CHAPTER 5. UTAH CODE OF MILITARY JUSTICE**

915 **Part 1. General Provisions**

916 ~~[39-6-1].~~ 39A-5-101. **Utah Code of Military Justice.**

917 ~~[This chapter is known as the "Utah Code of Military Justice," and may also be cited]~~
 918 The "Utah Code of Military Justice" may be abbreviated as the "UtCMJ[;]" and applies to all
 919 individuals subject to this title.

920 Section 39. Section **39A-5-102**, which is renumbered from Section 39-6-2 is
 921 renumbered and amended to read:

922 ~~[39-6-2].~~ 39A-5-102. **Definitions.**

923 As used in this chapter:

924 (1) "Accuser" means ~~[a person]~~ an individual who:

- 925 (a) signs and swears to charges;
- 926 (b) directs that charges nominally be signed and sworn to by another; or
- 927 (c) any other ~~[person]~~ individual who has an interest other than an official interest in
- 928 the prosecution of the accused.
- 929 (2) "Apprehend" means taking an individual into custody by competent authority, with
- 930 or without a warrant.
- 931 (3) "Arrest" means restraining an individual by an order, not imposed as a punishment
- 932 for an offense, directing the individual to remain within a specified area.
- 933 ~~[(2)]~~ (4) "Commanding officer" means both a commissioned officer and a warrant
- 934 officer designated as a commander.
- 935 ~~[(3)]~~ (5) "Commissioned officer" includes a commissioned warrant officer.
- 936 (6) "Confinement" means the physical restraint of an individual.
- 937 ~~[(4)]~~ (7) "Convening authority" means the governor or the adjutant general.
- 938 ~~[(5)]~~ (8) "Duty status other than state active duty" means any other type of duty, and
- 939 includes going to and returning from the duty.
- 940 ~~[(6)]~~ (9) "Enlisted member" means ~~[a person]~~ an individual in an enlisted grade.
- 941 ~~[(7)]~~ (10) "Grade" means a step or degree in a graduated scale of office or military
- 942 rank, established and designated as a grade by law or regulation.
- 943 ~~[(8)]~~ (11) "Legal officer" means any commissioned officer of the ~~[organized]~~ National
- 944 Guard ~~[of the state]~~ designated to perform legal duties for a command.
- 945 ~~[(9)]~~ (12) "Major command" or "MACOM" means a major subdivision of the ~~[Utah]~~
- 946 National Guard.
- 947 ~~[(10)]~~ (13) "Military" means any or all of the armed forces of the United States.
- 948 ~~[(11)]~~ (14) "Military court" means a court-martial, a court of inquiry, or a provost
- 949 court.
- 950 ~~[(12)]~~ (15) "Military judge" means a qualified staff judge advocate officer of a military
- 951 court detailed under Section ~~[39-6-20]~~ 39A-5-206.
- 952 ~~[(13)]~~ (16) "National Guard" ~~[means the Utah Army and Air National Guard,~~
- 953 ~~including]~~ includes part-time and full-time active guard and reserve (AGR), and ~~[includes]~~ the
- 954 Utah ~~[unorganized militia]~~ State Defense Force when called to active duty by the governor ~~[of~~
- 955 ~~the state].~~

956 [(14)] (17) "Officer" means a commissioned or warrant officer.

957 [(15)] (18) "Rank" means the order of precedence among members of the armed forces.

958 [(16)] (19) "State active duty" means full-time duty in the active military service of the
959 state under an order of the governor, issued pursuant to the governor's authority, and includes
960 going to and returning from [the] duty.

961 [(17)] (20) "State judge advocate" or "SJA" means the commissioned judge advocate
962 general's corps officer responsible for supervising the delivery of legal services in the National
963 Guard.

964 [(18)] (21) "State staff judge advocate" or "SSJA" means the commissioned judge
965 advocate general's corps officer appointed as the senior legal officer for the [Utah] National
966 Guard.

967 [(19)] (22) "Superior commissioned officer" means a commissioned officer superior to
968 another in rank or command.

969 [(20) "~~UtCMJ~~" means Title 39, Chapter 6, Utah Code of Military Justice.]

970 (23) "Unit" means any regularly organized command of the National Guard.

971 Section 40. Section **39A-5-103**, which is renumbered from Section 39-6-6 is
972 renumbered and amended to read:

973 [~~39-6-6~~]. **39A-5-103. State judge advocate -- Appointment -- Qualifications --**
974 **Duties -- Assistants.**

975 (1) The adjutant general shall appoint an officer of the National Guard as the state
976 judge advocate. The officer shall be a member of the Utah State Bar, a United States federal
977 court, branch qualified, and designated as a staff judge advocate officer.

978 (2) The state judge advocate is the principal military legal advisor and shall, in
979 connection with rendering legal advice to the adjutant general, prepare pretrial advice, a
980 post-trial review, and act as legal advisor to the adjutant general on all matters involving
981 military justice[~~, the Utah Manual for Military Courts, and the Utah Code of Military Justice~~].

982 (3) The adjutant general may appoint assistant state judge advocates as considered
983 necessary. [They] All assistant state judge advocates shall be officers of the National Guard,
984 members of the Utah State Bar, branch qualified, and designated as staff judge advocate
985 officers.

986 (4) The SJA or an assistant SJA shall make frequent inspections of military units

987 throughout the state to supervise the administration of military justice.

988 (5) The convening authority shall review directly with the SJA all matters relating to
989 the administration of military justice and administrative actions. The assistant state judge
990 advocate or legal officer of any command may communicate directly with the assistant state
991 judge advocate or legal officer of a superior or subordinate command, or with the SJA.

992 (6) ~~[A person]~~ An individual who has acted as a member, military judge, trial counsel,
993 assistant trial counsel, defense counsel, assistant defense counsel, or investigating officer, or
994 who has been a witness for either the prosecution or defense, may not subsequently act as
995 assistant state judge advocate, SJA, or legal officer to any reviewing authority upon the same
996 case.

997 Section 41. Section **39A-5-104**, which is renumbered from Section 39-6-3 is
998 renumbered and amended to read:

999 ~~[39-6-3]~~. **39A-5-104. Individuals subject to chapter -- Jurisdiction over**
1000 **offenses.**

1001 (1) The following ~~[persons]~~ individuals are subject to this chapter:

1002 (a) all members of the National Guard, including full-time members serving under
1003 Title 32, United States Code; and

1004 (b) all other ~~[persons]~~ individuals lawfully ordered to duty in or with the National
1005 Guard or the ~~[unorganized militia]~~ Utah State Defense Force, from the ~~[dates they are]~~ date
1006 required by the terms of the order or other directive[?].

1007 (2) (a) If there is a military activation by the federal government, all activated ~~[persons]~~
1008 individuals who would otherwise be under the jurisdiction of this chapter are subject to
1009 concurrent jurisdiction under federal and state law.

1010 (b) ~~[Persons]~~ Individuals under this subsection may only be tried for offenses occurring
1011 during activation and after release from federal service, while within the period of ~~[an]~~ the
1012 applicable statute of limitations.

1013 Section 42. Section **39A-5-105**, which is renumbered from Section 39-6-5 is
1014 renumbered and amended to read:

1015 ~~[39-6-5]~~. **39A-5-105. Application of chapter in and outside of the state --**
1016 **Military courts held outside the state.**

1017 (1) This chapter applies to all ~~[persons]~~ individuals:

1018 (a) subject to this chapter within the state; ~~[and]~~
1019 (b) otherwise subject to this chapter while serving outside the state~~[-];~~ and
1020 (c) while going to and returning from the service outside the state~~[- as if they were~~
1021 ~~serving inside the state]~~.

1022 (2) Military courts may be convened and held in units of the National Guard while
1023 those units are serving without the state, with the same jurisdiction and powers as to ~~[persons]~~
1024 individuals subject to this chapter as if the proceedings were held within the state. Offenses
1025 committed without the state may be tried and punished either within or without the state, as
1026 military necessity dictates.

1027 (3) Nothing in this chapter limits a commander's authority to use adverse
1028 administrative action to address misconduct by a member, regardless of the member's status at
1029 the time of the misconduct.

1030 Section 43. Section **39A-5-106**, which is renumbered from Section 39-6-40 is
1031 renumbered and amended to read:

1032 ~~[39-6-40].~~ **39A-5-106. Offenses against the state by individual not subject to**
1033 **chapter.**

1034 ~~[A person]~~ An individual not subject to this chapter is guilty of an offense against the
1035 state if ~~[he]~~ the individual willfully neglects or refuses to appear, refuses to qualify as a witness
1036 or to testify, or refuses to produce any evidence which ~~[that person]~~ the individual may have
1037 been legally subpoenaed to produce, after ~~[he]~~ the individual has been:

1038 (1) subpoenaed to appear as a witness or to produce books and records before a
1039 military court or before any military or civil officer designated to take a deposition to be read in
1040 evidence before the court; and

1041 (2) paid or tendered the fees and mileage of a witness at the rates allowed to witnesses
1042 attending the district courts of the state.

1043 Section 44. Section **39A-5-107**, which is renumbered from Section 39-6-7 is
1044 renumbered and amended to read:

1045 ~~[39-6-7].~~ **39A-5-107. Apprehension.**

1046 ~~[(1) "Apprehension" means the taking of a person into custody by competent authority,~~
1047 ~~with or without a warrant.]~~

1048 ~~[(2) A person]~~ (1) An individual authorized under this chapter or rules ~~[made under it]~~

1049 promulgated pursuant to this chapter to apprehend [~~persons~~] individuals subject to this chapter,
1050 any provost marshal of a military court appointed under this chapter, and any peace officer
1051 authorized by law, may apprehend [~~persons~~] individuals subject to this chapter upon probable
1052 cause to believe that an offense has been committed and the [~~person~~] individual to be
1053 apprehended committed the offense.

1054 [~~(3)~~] (2) Commissioned officers, warrant officers, and noncommissioned officers may
1055 quell disorderly conduct among [~~persons~~] individuals subject to this chapter and may
1056 apprehend those [~~persons~~] individuals who are taking part.

1057 Section 45. Section **39A-5-108**, which is renumbered from Section 39-6-8 is
1058 renumbered and amended to read:

1059 [~~39-6-8~~]. **39A-5-108. Arrest.**

1060 [~~(1) "Arrest" means the restraint of a person by an order, not imposed as a punishment~~
1061 ~~for an offense, directing the person to remain within a specified area.]~~

1062 [~~(2)~~] (1) An enlisted service member may be ordered into arrest or confinement by any
1063 commanding officer by an order, oral or written, delivered in person or through [~~persons~~]
1064 individuals subject to this chapter, or through [~~a person~~] an individual authorized by this
1065 chapter to apprehend [~~persons~~] individuals.

1066 (2) A commanding officer may authorize warrant officers or noncommissioned officers
1067 to order enlisted members of his or her command or subject to his or her authority into arrest or
1068 confinement.

1069 (3) A commissioned officer or warrant officer may be ordered apprehended, or ordered
1070 into arrest or confinement, only by a commanding officer to whose authority [~~he~~] the
1071 commissioned officer or warrant officer is subject, and only by an order, oral or written,
1072 delivered in person or by another commissioned officer. The authority to order the [~~person~~]
1073 officer apprehended or into arrest or confinement may not be delegated.

1074 (4) A [~~person~~] service member may not be apprehended or placed under arrest or
1075 confinement except upon probable cause.

1076 (5) This section does not limit [~~a person~~] an individual authorized to apprehend
1077 offenders in [~~his~~] securing the custody of an alleged offender until the proper authority may be
1078 notified.

1079 Section 46. Section **39A-5-109**, which is renumbered from Section 39-6-4 is

1080 renumbered and amended to read:

1081 ~~[39-6-4].~~ **39A-5-109. Fraudulently obtained discharge -- Desertion --**

1082 **Limitations -- Tolling of time limits.**

1083 (1) ~~[A person]~~ An individual discharged from the ~~[Utah]~~ National Guard who is later
1084 charged with having fraudulently obtained the discharge is subject to trial by a military court on
1085 that charge.

1086 (2) After apprehension, the ~~[person]~~ individual is subject to this chapter while in
1087 military custody for trial. Upon conviction of ~~[that]~~ the charge the ~~[person]~~ individual is
1088 subject to trial for all offenses under this chapter committed prior to the fraudulent discharge.

1089 (3) ~~[A person]~~ An individual who has deserted from a military unit, which ~~[act]~~ would
1090 subject the ~~[person]~~ individual to the jurisdiction of this chapter, is not relieved from the
1091 jurisdiction of this chapter due to a separation from any later period of service.

1092 (4) An individual charged with desertion or absence without leave shall be tried and
1093 punished within four years after the preferral of charges.

1094 (5) Except under Subsection (4), an individual charged with any offense may not be
1095 tried by a military court or punished under Section 39A-5-303 if the offense was committed
1096 more than two years before the receipt of sworn charges and specifications by an officer
1097 exercising jurisdiction as a military court convening authority.

1098 (6) Periods when the accused was outside the state's jurisdiction or in the custody of
1099 civilian authorities are excluded in computing limitations of time under this section.

1100 Section 47. Section **39A-5-110**, which is renumbered from Section 39-6-9 is
1101 renumbered and amended to read:

1102 ~~[39-6-9].~~ **39A-5-110. Confinement.**

1103 ~~[(1) "Confinement" means the physical restraint of a person.]~~

1104 ~~[(2)(a) A person]~~ (1) (a) An individual subject to this chapter, who is charged with an
1105 offense under this chapter, may be ordered into arrest or confinement, as circumstances require.

1106 (b) When ~~[a person]~~ an individual subject to this chapter is placed into arrest or
1107 confinement prior to trial, action shall be taken immediately to notify ~~[him]~~ the individual of
1108 the specific offense charged ~~[against him]~~, and to either try the ~~[person]~~ individual, or dismiss
1109 the charges ~~[against him]~~ and release ~~[him]~~ the individual.

1110 ~~[(3)]~~ (2) Confinement before, during, or after trial by a military court shall be ~~[in either~~

1111 ~~a guard house or a civilian jail, or other~~ ordered by a field grade or general officer and may be
 1112 in a penal [facility] institution determined by the governor or [his designee] the adjutant
 1113 general.

1114 Section 48. Section **39A-5-111**, which is renumbered from Section 39-6-10 is
 1115 renumbered and amended to read:

1116 ~~[39-6-10].~~ **39A-5-111. Parties under obligation to keep a prisoner -- Reporting.**

1117 (1) A provost marshal, ~~[commander of a guard, master at arms, warden, keeper,]~~
 1118 sheriff, or officer of a city or county jail or ~~[other jail]~~ penal institution designated under
 1119 Section ~~[39-6-9]~~ 39A-5-110, may not refuse to receive or keep any prisoner ~~[committed to his~~
 1120 ~~charge]~~ if the committing ~~[person]~~ officer provides a signed statement ~~[signed by him,]~~
 1121 indicating the offense charged against the prisoner.

1122 (2) Any party under Subsection (1) charged with keeping a prisoner shall within 24
 1123 hours after ~~[that]~~ commitment ~~[or as soon as he is relieved from guard,]~~ report to the
 1124 commanding officer of the prisoner the name of the prisoner, the nature of the offense charged
 1125 against him, and the name of the ~~[person]~~ individual who ordered or authorized the
 1126 commitment.

1127 Section 49. Section **39A-5-112**, which is renumbered from Section 39-6-11 is
 1128 renumbered and amended to read:

1129 ~~[39-6-11].~~ **39A-5-112. Individual confined prior to trial -- Punishment**
 1130 **limitations.**

1131 (1) Subject to Section ~~[39-6-9]~~ 39A-5-110, ~~[a person]~~ an individual in confinement
 1132 prior to trial may not be subjected to punishment or penalty other than arrest or confinement
 1133 ~~[upon]~~ while the charges are pending ~~[against him].~~

1134 (2) The arrest or confinement imposed on a prisoner may not be more rigorous than
 1135 necessary to ensure the prisoner's presence. However, ~~[he]~~ the prisoner may be:

1136 (a) subjected to minor punishment during that period for discipline violations; and

1137 (b) required to perform labor as necessary for the policing and sanitation of ~~[his]~~ the
 1138 prisoner's living [quarters, mess facilities, and the area] conditions, immediately adjacent ~~[to~~
 1139 ~~these]~~ areas, or as otherwise designated by regulations governing the housing of a prisoner.

1140 Section 50. Section **39A-5-113**, which is renumbered from Section 39-6-12 is
 1141 renumbered and amended to read:

1142 ~~[39-6-12].~~ **39A-5-113. Individual accused of offense against civilian --**
1143 **Sentences of military and civilian courts.**

1144 (1) ~~[Under this chapter, a person]~~ A service member on duty and subject to this chapter
1145 who is accused of an offense against a civilian ~~[person]~~ individual may be delivered, upon
1146 request, to ~~[the]~~ a civilian authority for judicial proceedings.

1147 (2) (a) ~~[When a person]~~ If an individual under sentence imposed by a military court is
1148 delivered to a civilian authority under this section, and the ~~[person]~~ individual is convicted in a
1149 civilian court, the execution of the sentence of the military court is interrupted.

1150 (b) After the ~~[person]~~ individual has completed the sentence imposed by the civilian
1151 court, upon request of military authority, ~~[he]~~ the individual shall be returned to military
1152 custody for completion of ~~[his]~~ the military court sentence.

1153 Section 51. Section **39A-5-114**, which is renumbered from Section 39-6-23 is
1154 renumbered and amended to read:

1155 ~~[39-6-23].~~ **39A-5-114. Charges and specifications -- Contents -- Notification of**
1156 **accused.**

1157 (1) Charges and specifications shall be signed by a ~~[person]~~ member subject to this
1158 chapter under oath before ~~[a person]~~ an individual authorized to administer oaths and shall
1159 state that:

1160 (a) the ~~[person]~~ individual signing has personal knowledge of, or has investigated, the
1161 matters set forth in the document; and

1162 (b) the matters set forth are true to the best of ~~[his]~~ the individual's knowledge and
1163 belief.

1164 (2) (a) Upon the preferring of charges, the appropriate authority shall take action
1165 immediately to determine what disposition should be made in the interest of justice and
1166 discipline.

1167 (b) The accused shall be informed of the charges against him or her as soon as
1168 practicable.

1169 Section 52. Section **39A-5-115**, which is renumbered from Section 39-6-24 is
1170 renumbered and amended to read:

1171 ~~[39-6-24].~~ **39A-5-115. Individual charged -- Limits on evidence obtained from**
1172 **other individuals.**

1173 (1) ~~[A person]~~ An individual subject to this chapter may not:

1174 (a) compel any ~~[person]~~ individual to incriminate himself or herself or to answer any
1175 question, the answer to which may tend to incriminate ~~[him]~~ the individual;

1176 (b) interrogate, or request any statement from an accused or ~~[a person]~~ an individual
1177 suspected of an offense, without first:

1178 (i) informing ~~[him]~~ the individual of the nature of the accusation; and

1179 (ii) advising ~~[him that he is not required to make any]~~ the individual that a statement is
1180 not required regarding the offense of which ~~[he]~~ the individual is accused or suspected, and that
1181 any statement ~~[made by him]~~ may be used as evidence against ~~[him]~~ the individual in a trial by
1182 military court; and

1183 (c) compel any ~~[person]~~ individual to make a statement or produce evidence before any
1184 military court, if the statement or evidence is not material to the issue before the court and may
1185 tend to degrade ~~[him]~~ the individual.

1186 (2) A statement obtained from any ~~[person]~~ individual in violation of this section, or
1187 through the use of coercion, unlawful influence, or unlawful inducement may not be received
1188 in evidence against ~~[him]~~ the individual in a trial by a military court.

1189 Section 53. Section **39A-5-116**, which is renumbered from Section 39-6-26 is
1190 renumbered and amended to read:

1191 ~~[39-6-26].~~ **39A-5-116. Charges to be forwarded to governor or adjutant**
1192 **general.**

1193 When ~~[a person]~~ an individual is held for trial by military court, the commanding
1194 officer shall forward the charges, together with the investigation and related papers, to the
1195 governor or the adjutant general within five working days, excluding holidays, after the
1196 accused is ordered into arrest or confinement.

1197 Section 54. Section **39A-5-117**, which is renumbered from Section 39-6-27 is
1198 renumbered and amended to read:

1199 ~~[39-6-27].~~ **39A-5-117. Review of charge by SJA -- Corrections to charges.**

1200 (1) (a) Before directing the trial of any charge by a military court, the convening
1201 authority shall refer ~~[it]~~ the charge to the SJA for consideration and advice.

1202 (b) The convening authority may not refer a charge to a military court for trial unless
1203 he or she has found that the charge alleges an offense under this chapter and is warranted by

1204 sufficient evidence, as indicated in the report of the investigation.

1205 (2) If the charges or specifications are not formally correct or do not conform to the
1206 substance of the evidence contained in the report of the investigating officer, formal corrections
1207 and changes in the charges and specifications as necessary may be made to conform to the
1208 evidence.

1209 Section 55. Section **39A-5-118**, which is renumbered from Section 39-6-28 is
1210 renumbered and amended to read:

1211 ~~[39-6-28]~~. **39A-5-118. Service of charges on accused.**

1212 (1) The trial counsel to whom charges are referred for trial shall cause to be served
1213 upon the accused a copy of the charges to be tried.

1214 (2) ~~[A person]~~ An individual may not, against his or her objection, be brought to trial
1215 or be required to participate ~~[by himself or with counsel]~~ in a session called by the military
1216 judge under Section ~~[39-6-32]~~ 39A-5-216, in a military court case, within five days after the
1217 service of charges ~~[upon him]~~.

1218 Section 56. Section **39A-5-119**, which is renumbered from Section 39-6-114 is
1219 renumbered and amended to read:

1220 ~~[39-6-114]~~. **39A-5-119. Chapter interpretation -- Federal law governs.**

1221 (1) Federal laws and regulations, forms, precedents, and usages relating to and
1222 governing the armed forces of the United States and the National Guard not inconsistent with
1223 the constitution and laws of this state or with a rule or regulation adopted pursuant to Section
1224 ~~[39-1-3]~~ 39A-3-102, apply to and govern the National Guard of this state, including all
1225 members on active duty within the state as active duty ~~[guard/reserve]~~ guard or reserve
1226 personnel under U.S.C.A. Title 32, National Guard.

1227 (2) The Uniform Code of Military Justice, 10 U.S.C.A. 47, including regulations,
1228 manuals, forms, precedents, and usages implementing, interpreting and complementing the
1229 code, is adopted for use by the National Guard of this state and applies as long as it is not
1230 inconsistent with:

1231 (a) the constitution and laws of this state, including the regulations, manuals, forms,
1232 precedents, and usages implementing, interpreting, and complementing the constitution and
1233 laws of this state; or

1234 (b) a rule or regulation adopted pursuant to Section ~~[39-1-3]~~ 39A-3-102, to govern the

1235 National Guard of this state, including all members on active duty within the state as active
 1236 duty [~~guard/reserve~~] guard or reserve personnel under U.S.C.A. Title 32, National Guard, when
 1237 the members are serving other than in a federal capacity under U.S.C.A. Title 10.

1238 Section 57. Section **39A-5-201** is enacted to read:

1239 **Part 2. Military Courts**

1240 **39A-5-201. Military courts.**

1241 This part sets the requirements and procedures for the conduct of military courts of the
 1242 Utah National Guard.

1243 Section 58. Section **39A-5-202**, which is renumbered from Section 39-6-15 is
 1244 renumbered and amended to read:

1245 [~~39-6-15~~]. **39A-5-202. Composition -- Convening authority -- Responsibilities.**

1246 (1) [~~In~~] Within the National Guard [~~that is~~] while not in federal service, there is created
 1247 a military court to hear matters designated under the [~~UtCMJ~~] Utah Code of Military Justice.

1248 (2) The governor or the adjutant general of the state is the convening authority for any
 1249 military court in the state and upon receipt of charges may:

1250 (a) dismiss any charges;

1251 (b) forward charges to a subordinate commander for disposition; or

1252 (c) refer charges to a military court for trial.

1253 (3) A military court shall be convened in accordance with this part.

1254 [~~(2)~~] (4) The court shall be composed of:

1255 (a) a military judge and not fewer than three panel members; or

1256 (b) a military judge, if before the court is assembled, the accused, knowing the identity
 1257 of the military judge and after consultation with his defense counsel, requests in writing a court
 1258 composed only of a military judge, and the military judge approves the request.

1259 (5) The convening authority of a military court or court of inquiry:

1260 (a) shall detail or employ qualified court reporters to record the proceedings of and
 1261 testimony taken by the court; and

1262 (b) may detail or employ interpreters, as necessary.

1263 Section 59. Section **39A-5-203**, which is renumbered from Section 39-6-16 is
 1264 renumbered and amended to read:

1265 [~~39-6-16~~]. **39A-5-203. Jurisdiction -- Punishments.**

1266 (1) (a) [~~Subject to Subsections (2) and (3), a~~] A military court in this state has
1267 jurisdiction to try [~~persons~~] individuals subject to this chapter for any offense punishable by
1268 this chapter.

1269 (b) The military court may, under limitations the governor may prescribe, and under
1270 applicable state and federal regulations governing punishment, impose any punishment
1271 described in Section 39A-5-302 and not prohibited by this chapter or state law, including the
1272 issuance of a bad conduct discharge, when the court is in session to consider a penalty.

1273 (2) Each major command component of the National Guard has military court
1274 jurisdiction over all [~~persons~~] individuals subject to this chapter. The exercise of this
1275 jurisdiction by one command component over members of another shall be in accordance with
1276 regulations prescribed by the governor.

1277 (3) Members of the Utah National Guard [~~or the unorganized militia~~] in federal service
1278 are subject to the federal Uniform Code of Military Justice and all federal and state laws
1279 pertaining to them, until released back to state control.

1280 (4) The jurisdiction of the courts established by this chapter is presumed, and the
1281 burden of proof shall rest on any individual attacking the court's jurisdiction in any action or
1282 proceeding.

1283 Section 60. Section **39A-5-204**, which is renumbered from Section 39-6-109 is
1284 renumbered and amended to read:

1285 [~~39-6-109~~]. **39A-5-204. Authority -- Processes and mandates.**

1286 (1) A military court may issue all processes and mandates necessary to carry into effect
1287 the court's authority. [~~The court may issue subpoenas duces tecum and enforce by attachment~~
1288 ~~the attendance of witnesses and production of books and records, when they are in the state,~~
1289 ~~and the courts are sitting in the state.]~~

1290 (2) [~~The processes~~] Processes and mandates:

1291 (a) may be issued by a military court judge or the president of other military courts;

1292 (b) may be directed to and executed by the military police assigned to the court, or any
1293 peace officer; and

1294 (c) shall be in a form prescribed by regulations issued under this chapter.

1295 (3) (a) All officers to whom [~~the~~] processes or mandates are directed shall execute
1296 [~~them~~] and [~~make~~] return [~~of their acts according to~~] all actions in accordance with the

1297 requirements of the documents.

1298 (b) Except [~~where~~] as otherwise provided [~~under~~] in this chapter, an officer may not
1299 demand or require payment of any fee or charge for receiving, executing, or returning a process
1300 or mandate, or for any service in connection with either document.

1301 Section 61. Section **39A-5-205**, which is renumbered from Section 39-6-108 is
1302 renumbered and amended to read:

1303 ~~[39-6-108].~~ **39A-5-205. Execution of military court processes and sentences.**

1304 The processes and sentences of the National Guard in its military court, when the guard
1305 is not in federal service, shall be executed by the civil officers prescribed by state law.

1306 Section 62. Section **39A-5-206**, which is renumbered from Section 39-6-20 is
1307 renumbered and amended to read:

1308 ~~[39-6-20].~~ **39A-5-206. Military judge -- Qualifications -- Designation for detail.**

1309 (1) The [~~authority~~] convening authority of a military court shall, subject to regulations
1310 [~~made~~] promulgated by the governor, detail a military judge, as designated by the state judge
1311 advocate, to preside over each open session of the court.

1312 (2) A military judge shall be:

1313 (a) a commissioned officer;

1314 (b) a member of the Utah State Bar;

1315 (c) a member of the bar of a federal court; and

1316 (d) certified as qualified for [~~this~~] duty by the state judge advocate.

1317 [~~(3)(a) The military judge of a military court shall be designated by the state judge~~
1318 ~~advocate or the SJA's designee for detail by the convening authority.]~~

1319 [~~(b)~~] (3) Unless the military court [~~was~~] is convened by the governor, neither the
1320 adjutant general nor the adjutant general's staff may prepare or review any report concerning
1321 the effectiveness, fitness, or efficiency of the detailed military judge that relates to the judge's
1322 performance of duty as a military judge.

1323 (4) [~~A person~~] An individual is not eligible to act as a military judge in a case if the
1324 [~~person~~] individual:

1325 (a) is the accuser;

1326 (b) is a witness in the case;

1327 (c) has acted as investigating officer; or

1328 (d) is a counsel in the same case.

1329 (5) The military judge of a court may not:

1330 (a) consult with the members of the court, except in the presence of the accused, trial
1331 counsel, and defense counsel; or

1332 (b) vote with the members of the court.

1333 Section 63. Section **39A-5-207**, which is renumbered from Section 39-1-41.5 is
1334 renumbered and amended to read:

1335 ~~[39-1-41.5].~~ **39A-5-207. Authority of military court judges -- Payment of**
1336 **witnesses.**

1337 (1) Judges of military courts may:

1338 (a) issue a warrant ~~[to]~~ for the arrest of an accused ~~[person and bring him before the~~
1339 ~~court for trial, when the person has failed to obey a prior summons to appear before the court,~~
1340 ~~and a copy of the charge or information has been delivered to the accused with the summons]~~
1341 individual who, having been served with a warrant and a copy of the charges, disobeys a
1342 written order by the convening authority to appear before the court;

1343 (b) issue subpoenas and subpoenas duces tecum, and enforce by attachment the
1344 attendance of witnesses and the production of books and papers;

1345 (c) sentence for a refusal to be sworn or to answer as provided in actions before civil
1346 courts; and

1347 (d) issue process to compel witnesses to appear and testify, and compel the production
1348 of other evidence in any county within the state.

1349 (2) Witnesses shall be paid in the same manner as in district courts.

1350 Section 64. Section **39A-5-208**, which is renumbered from Section 39-6-19 is
1351 renumbered and amended to read:

1352 ~~[39-6-19].~~ **39A-5-208. Individuals who may serve on a military court.**

1353 (1) A commissioned officer off or on duty with the National Guard may serve on a
1354 military court for the trial of any ~~[person]~~ individual brought before the court for trial.

1355 (2) A warrant officer off or on duty with the National Guard may serve on a military
1356 court for the trial of any ~~[person]~~ individual, other than a superior commissioned officer, who
1357 is brought before the court for trial.

1358 (3) (a) An enlisted member of the National Guard who is not a member of the same

1359 unit as the accused may serve on a military court for the trial of any enlisted member brought
1360 before the court for trial.

1361 (b) However, an enlisted member may serve as a member of a court only if before the
1362 conclusion of a session called by the court under Section [~~39-6-32~~] 39A-5-216, or in the
1363 absence of the session, before the court is assembled for the trial of the accused, the accused
1364 personally has requested in writing that enlisted members serve on the court.

1365 (c) If the request is made under Subsection (3)(b), the accused may not be tried by the
1366 military court when enlisted members comprise less than 1/2 of the total membership of the
1367 court, unless eligible members cannot be obtained on account of physical conditions or military
1368 exigencies.

1369 (d) If [~~the~~] eligible members cannot be obtained, the court may be assembled and trial
1370 held without them, but the convening authority shall make a detailed written explanation of
1371 why [~~they~~] eligible members could not be obtained. This statement shall be appended to the
1372 court record.

1373 [~~(e) "Unit" means any regularly organized major command (MACOM) of the National~~
1374 ~~Guard.]~~

1375 (4) (a) [~~A person~~] An individual subject to this chapter [~~shall~~] may be tried by a
1376 military court, but no member of the court may be junior to [~~him~~] the individual in rank or
1377 grade.

1378 (b) When [~~an authority convenes~~] a military court[~~, it~~] is convened, the convening
1379 authority shall detail as members of the court [~~those persons~~] individuals who [~~in his opinion~~]
1380 are best qualified for the duty by age, education, training, experience, length of service, and
1381 judicial temperament.

1382 (c) A member is not eligible to serve as a member of a military court [~~when he~~] if the
1383 member:

1384 (i) is the accuser [~~or~~] in the case;

1385 (ii) is a witness in the case [~~or~~];

1386 (iii) has acted as investigating officer in the case; or

1387 (iv) has acted as counsel in the [~~same~~] case.

1388 (5) An action or proceeding may not be prosecuted or maintained against a convening
1389 authority, member of a military court, or individual acting under the court's authority or

1390 reviewing the court's proceedings because of:

1391 (a) the imposition, approval, or execution of any sentence;

1392 (b) the imposition or collection of a fine or penalty; or

1393 (c) the execution of any warrant, writ, execution, process, or mandate of a military

1394 court.

1395 Section 65. Section **39A-5-209**, which is renumbered from Section 39-6-30 is

1396 renumbered and amended to read:

1397 **[39-6-30]. 39A-5-209. Military court findings -- Prohibition of censuring or**

1398 **influencing court actions -- Military court member's performance.**

1399 ~~[(1) An authority convening a military court, or any other commanding officer, or~~
1400 ~~officer serving on the staff of any of these persons, may not censure, reprimand, or admonish~~
1401 ~~the court or any member, military judge, or counsel of the court, with respect to the findings or~~
1402 ~~sentence adjudged by the court, or any other function carried out in the proceeding.]~~

1403 (1) The court or any panel member, military judge, or counsel of the court may not be
1404 censured, reprimanded, or admonished by a convening authority, commanding officer, or staff
1405 officer with respect to the findings or sentence adjudged by the court, or any other function
1406 carried out in the proceeding.

1407 (2) ~~[A person]~~ An individual subject to this chapter may not attempt to coerce, or by
1408 any unauthorized means influence the action of:

1409 (a) the military court or any other military tribunal or any member of ~~[these in their]~~ a
1410 military tribunal arriving at the findings or sentence in any case; or

1411 (b) any convening, approving, or reviewing authority with respect to ~~[his]~~ any judicial
1412 acts.

1413 (3) Subsection (2) does not apply to:

1414 (a) general instructional or informational courses in military justice, if the courses are
1415 designed solely for the purpose of instructing members of a command in the substantive and
1416 procedural aspects of a military court; or

1417 (b) statements and instructions given in open court by the military judge, the president
1418 of a military court, or counsel.

1419 (4) In preparing an effectiveness, efficiency, or fitness report, or any other report or
1420 document used in whole or in part for determining whether a member of the National Guard is

1421 qualified to be advanced in grade, or in determining the assignment or transfer of a member of
1422 the National Guard, or in determining whether a member should be retained in an active status,
1423 ~~[a person]~~ an individual subject to this chapter may not:

1424 (a) consider or evaluate the performance of duty of any member of a military court; or

1425 (b) give a less favorable rating or evaluation of any member of the National Guard
1426 because of the zeal with which the member, as counsel, represented any accused before a
1427 military court or before any other proceeding authorized by this chapter.

1428 Section 66. Section **39A-5-210**, which is renumbered from Section 39-6-31 is
1429 renumbered and amended to read:

1430 ~~[39-6-31]~~. **39A-5-210. Prosecutions in state name -- Right to defense trial**
1431 **counsel.**

1432 (1) The trial counsel of a military court prosecutes in the name of the state, and shall
1433 prepare the record of the proceedings under the direction of the court.

1434 (2) (a) The accused has the right to be represented ~~[in his defense]~~ before a military
1435 court by civilian counsel if provided by him at no expense to the state, or by military counsel of
1436 his or her own selection if reasonably available.

1437 (b) If the accused has retained civilian counsel ~~[of his own choosing]~~, the defense
1438 counsel and any assistant defense counsel who were detailed shall act as the associate counsel
1439 to the civilian counsel ~~[for the accused]~~ if the accused desires. Otherwise, detailed counsel
1440 shall be excused by the military judge.

1441 (3) In a court proceeding resulting in a conviction, the defense counsel may forward for
1442 attachment to the record of proceedings a brief of matters that should be considered on behalf
1443 of the accused on review, including any objection to the contents of the record.

1444 (4) An assistant trial counsel of a military court may, under the direction of the trial
1445 counsel, or as trial counsel when he is so qualified, perform any duty imposed by law,
1446 regulation, or the custom of the service on the trial counsel of the court. An assistant trial
1447 counsel of a military court may perform any duty of the trial counsel.

1448 (5) An assistant defense counsel of a military court may, under the direction of the
1449 defense counsel or when he is qualified to be the defense counsel, perform any duty imposed
1450 by law, regulation, or the custom of the service upon counsel for the accused.

1451 Section 67. Section **39A-5-211**, which is renumbered from Section 39-6-29 is

1452 renumbered and amended to read:

1453 ~~[39-6-29].~~ **39A-5-211. Court procedures -- Regulations by governor.**

1454 (1) In cases subject to or brought under this chapter, before military courts, or before
1455 other military tribunals, the procedure, including elements of proof, may be prescribed by the
1456 governor ~~[by regulations]~~.

1457 (2) The ~~[regulations shall, as the]~~ governor ~~[considers practicable,]~~ shall promulgate
1458 regulations that apply the principles of law and the rules of evidence generally recognized in
1459 the trial of criminal cases in the courts of the state. However, the regulations may not be
1460 contrary to or inconsistent with this chapter.

1461 Section 68. Section **39A-5-212**, which is renumbered from Section 39-6-35 is
1462 renumbered and amended to read:

1463 ~~[39-6-35].~~ **39A-5-212. Military court -- Oath or affirmation.**

1464 (1) Before performing their respective duties, an oath or affirmation to perform all
1465 duties faithfully shall be administered to:

1466 (a) military judges~~[;]~~;

1467 (b) interpreters~~[;]~~;

1468 (c) members of the court~~[;]~~;

1469 (d) the trial counsel~~[;]~~;

1470 (e) the assistant trial counsel~~[;]~~;

1471 (f) the defense counsel~~[;]~~;

1472 (g) the assistant defense counsel~~[;]~~; and

1473 (h) court reporters ~~[shall take an oath or affirmation to perform their duties faithfully].~~

1474 (2) (a) The governor shall prescribe by regulation:

1475 (i) the oath or affirmation~~[;]~~;

1476 (ii) the time and place of taking ~~[either of them,]~~ the oath or affirmation;

1477 (iii) the manner of recording the taking~~[;]~~; and

1478 (iv) whether the oath is to be taken for all cases in which these duties are to be
1479 performed or for a specific case.

1480 (b) The regulations may provide that an oath or affirmation to faithfully perform any of
1481 the duties under Subsection (1) except that of court reporter, be taken at any time by any judge
1482 advocate, legal officer, or other ~~[person]~~ individual certified as qualified or competent for the

1483 duty. The regulations may also provide that an oath under this subsection need not again be
1484 taken at the time the judge advocate, legal officer, or other [~~person~~] individual having taken an
1485 oath under this section is detailed to that duty.

1486 [~~(c)~~] (3) Each witness in a military court shall be examined [~~on~~] under oath or
1487 affirmation.

1488 Section 69. Section **39A-5-213**, which is renumbered from Section 39-6-34 is
1489 renumbered and amended to read:

1490 [~~39-6-34~~]. **39A-5-213. Military court -- Challenge for cause -- Peremptory**
1491 **challenge.**

1492 (1) The military judge and members of a military court may be challenged by the
1493 accused or the trial counsel for cause stated to the court. The military judge of the court shall
1494 determine the relevancy and validity of challenges for cause, and may not receive a challenge
1495 to more than one [~~person~~] member at a time. Challenges by the trial counsel shall be presented
1496 and decided before those by the accused are offered, unless the judge determines otherwise.

1497 (2) Each accused and the trial counsel are entitled to one peremptory challenge, but the
1498 military judge may not be challenged except for cause. The military judge in his or her
1499 discretion may grant additional peremptory challenges where appropriate.

1500 Section 70. Section **39A-5-214**, which is renumbered from Section 39-6-22 is
1501 renumbered and amended to read:

1502 [~~39-6-22~~]. **39A-5-214. Military court members -- When excused -- Trial**
1503 **procedure.**

1504 (1) A member of a military court may not be absent or excused after the court has been
1505 assembled for the trial of the accused, except because of physical disability, the result of a
1506 challenge, or for good cause by order of the convening authority.

1507 (2) (a) When a military court other than a court composed solely of a military judge is
1508 reduced to fewer than four members, the trial may not proceed unless the convening authority
1509 details new members sufficient to provide not fewer than four members.

1510 (b) When the new members have been sworn, the trial may proceed with the new
1511 members present after the recorded evidence previously introduced before the members of the
1512 court has been read to the court in the presence of the military judge, the accused, and the
1513 counsel for the prosecution and defense.

1514 Section 71. Section **39A-5-215**, which is renumbered from Section 39-6-33 is
1515 renumbered and amended to read:

1516 ~~[39-6-33]~~. **39A-5-215. Military court -- Continuance.**

1517 The military judge may, upon good cause shown, grant a continuance to trial or defense
1518 counsel for a stated period of time, when a continuance appears to be just.

1519 Section 72. Section **39A-5-216**, which is renumbered from Section 39-6-32 is
1520 renumbered and amended to read:

1521 ~~[39-6-32]~~. **39A-5-216. Military court -- Session -- Procedures.**

1522 (1) After the service of charges has been referred for trial to a military court composed
1523 of a military judge and panel members, the military judge may, subject to Section ~~[39-6-28]~~
1524 39A-5-118, call the court into session. The session shall be:

1525 (a) made a part of the record~~[;]~~; and ~~[shall be]~~

1526 (b) in the presence of the accused, the defense counsel, and the trial counsel.

1527 (2) The session may be conducted without the presence of the panel members.

1528 (3) A session under this subsection may be conducted for the following purposes:

1529 (a) hearing and determining motions raising defenses or objections which are capable
1530 of determination without trial of the issues raised by a plea of not guilty;

1531 (b) hearing and ruling upon any matter a military judge under this chapter may rule
1532 upon, whether or not the matter is appropriate for later consideration or decision by the
1533 members of the court;

1534 (c) holding the arraignment and receiving the pleas of the accused, if permitted by
1535 regulations ~~[prescribed]~~ promulgated by the governor or adjutant general; or

1536 (d) performing any other procedural function that may be performed by the military
1537 judge under this chapter or under rules ~~[prescribed]~~ promulgated under Section ~~[39-6-39]~~
1538 39A-5-219 and which does not require the presence of the members of the court.

1539 ~~[(3)]~~ (4) When the members of a military court deliberate or vote, only the members
1540 may be present.

1541 (5) All other proceedings, including any other consultation of the members of the court
1542 with counsel or the military judge, shall be made a part of the record and shall be in the
1543 presence of the accused, the defense counsel, and the military judge.

1544 Section 73. Section **39A-5-217**, which is renumbered from Section 39-6-38 is

1545 renumbered and amended to read:

1546 ~~[39-6-38]~~. 39A-5-217. **Plea of not guilty -- Accepted -- Withdrawn.**

1547 (1) A plea of not guilty shall be entered in the record, and the court shall proceed as
1548 though the accused ~~had~~ pleaded not guilty, if the accused:

1549 (a) after arraignment, makes an irregular pleading;

1550 (b) after a plea of guilty, raises a matter inconsistent with the plea;

1551 (c) has apparently entered the plea of guilty improvidently or through lack of
1552 understanding of its meaning and effect; or

1553 (d) fails or refuses to plead.

1554 (2) (a) A plea of guilty by the accused may not be accepted to any charge or
1555 specification alleging an offense for which a determinate term of one year confinement may be
1556 imposed.

1557 (b) If a plea of guilty has been accepted by the military judge, a finding of guilty, if
1558 permitted by regulations promulgated by the governor, shall be entered immediately without
1559 vote and constitutes the finding of the court.

1560 (c) If the plea of guilty is withdrawn prior to announcement of the sentence, the
1561 proceedings shall continue as though the accused ~~had~~ pleaded not guilty.

1562 Section 74. Section 39A-5-218, which is renumbered from Section 39-6-41 is
1563 renumbered and amended to read:

1564 ~~[39-6-41]~~. 39A-5-218. **Contempt -- Penalty.**

1565 (1) A military court may punish for contempt any ~~[person]~~ individual who uses any
1566 menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any
1567 disorderly conduct.

1568 (2) The punishment may not exceed confinement for three days in the county jail of the
1569 county where the proceedings are held, or a fine of \$200, or both.

1570 Section 75. Section 39A-5-219, which is renumbered from Section 39-6-39 is
1571 renumbered and amended to read:

1572 ~~[39-6-39]~~. 39A-5-219. **Obtaining evidence and witnesses -- Procedure.**

1573 ~~[(1)]~~ The trial and defense counsel, and the military court, have equal opportunity to
1574 obtain witnesses and other evidence under:

1575 (1) regulations promulgated by the governor~~;~~ or adjutant general~~;~~ or;

- 1576 (2) the applicable rules of civil and criminal procedure; or
1577 (3) state or federal law [~~prescribe~~].
1578 ~~[(2) The military court judge may:]~~
1579 ~~[(a) issue a warrant for the arrest of any accused person who, having been served with a~~
1580 ~~warrant and a copy of the charges, disobeys a written order by the convening authority to~~
1581 ~~appear before the court;]~~
1582 ~~[(b) issue subpoenas duces tecum and other subpoenas;]~~
1583 ~~[(c) enforce by attachment the attendance of witnesses and the production of books and~~
1584 ~~papers; and]~~
1585 ~~[(d) sentence for refusal to be sworn or to answer, as under civil procedure.]~~
1586 ~~[(3) Process issued in a military court to compel witnesses to appear and testify and to~~
1587 ~~compel the production of other evidence may be served within the boundaries of the state.]~~

1588 Section 76. Section **39A-5-220**, which is renumbered from Section 39-6-42 is
1589 renumbered and amended to read:

1590 ~~[39-6-42].~~ **39A-5-220. Depositions -- Procedure.**

1591 (1) After charges have been signed under Section ~~[39-6-23]~~ 39A-5-114, any party may
1592 take oral or written depositions unless the military judge hearing the case, or if the case is not
1593 being heard, an authority competent to convene a military court for the trial of ~~[those]~~ the
1594 charges prohibits the depositions for good cause.

1595 (2) The party at whose instance a deposition is to be taken shall give to every other
1596 party reasonable written notice of the time and place for taking the deposition.

1597 (3) Depositions may be taken before and authenticated by any military or civil officer
1598 authorized to administer oaths under state law or the law of the jurisdiction where the
1599 deposition is to be taken ~~[to administer oaths]~~.

1600 (4) An authenticated deposition, taken upon reasonable notice to the other parties, may
1601 be read in evidence, to the extent it is admissible under the rules of evidence, before any
1602 military court or any proceeding before a court of inquiry, if ~~[it appears to the court]~~:

1603 (a) the witness resides or is beyond the state in which the military court or court of
1604 inquiry is ordered to sit, or beyond the distance of 100 miles from the location of the trial or
1605 hearing;

1606 (b) the witness due to death, age, illness, bodily infirmity, imprisonment, military

1607 necessity, nonamenability to process, or other reasonable cause, is unable or refuses to appear
1608 and testify in person at the location of the trial or hearing;

1609 (c) the present location of the witness is unknown; or

1610 (d) the deposition was taken in the physical presence of the accused.

1611 Section 77. Section **39A-5-221**, which is renumbered from Section 39-6-43 is
1612 renumbered and amended to read:

1613 ~~[39-6-43].~~ **39A-5-221. Sworn testimony -- Read in evidence.**

1614 (1) The sworn testimony of a case which is contained in the authenticated record of
1615 proceedings of a court of inquiry, of ~~[a person]~~ an individual whose oral testimony cannot be
1616 obtained, may be read in evidence by any party before a military court if:

1617 (a) the sworn testimony is otherwise admissible under the rules of evidence;

1618 (b) the accused was a party before the court of inquiry;

1619 (c) the same issue was involved or the accused consents to the introduction of the
1620 evidence; or

1621 (d) the accused was physically present when the testimony was taken.

1622 (2) The testimony may be read in evidence:

1623 (a) before a court of inquiry or a military board; or

1624 (b) by the defense only in cases extending to the dismissal of a commissioned officer.

1625 Section 78. Section **39A-5-222**, which is renumbered from Section 39-6-44 is
1626 renumbered and amended to read:

1627 ~~[39-6-44].~~ **39A-5-222. Voting by military court members -- Procedure --**
1628 **Presumption of innocence -- Reasonable doubt -- Burden of proof.**

1629 ~~[(1) (a) Voting by members of a military court on the findings and on the sentence, and~~
1630 ~~upon questions of challenge, are by secret written ballot.]~~

1631 ~~[(b) The junior member of the court counts the votes.]~~

1632 ~~[(c) The count shall be reviewed by the president, who shall immediately announce the~~
1633 ~~result of the ballot to the members of the court.]~~

1634 ~~[(2)]~~ (1) (a) The military judge shall rule upon all questions of law and all interlocutory
1635 questions arising during the proceedings.

1636 (b) A ruling made by the military judge upon a question of law or an interlocutory
1637 question, other than the factual issue of mental responsibility of the accused, is final and is the

1638 ruling of the court. However, the military judge may change the ruling at any time during the
1639 trial.

1640 ~~[(3)]~~ (2) Before a vote is taken on the findings, the military judge shall, in the presence
1641 of the accused and counsel, instruct the court as to the elements of the offense and charge the
1642 court that:

1643 (a) the accused ~~[must be]~~ is presumed innocent until ~~[his]~~ guilt is established by legal
1644 and competent evidence beyond reasonable doubt;

1645 (b) if there is reasonable doubt as to the guilt of the accused, the doubt shall be
1646 resolved in favor of the accused, and ~~[he]~~ the accused shall be acquitted;

1647 (c) if there is a reasonable doubt as to the degree of guilt, the finding ~~[must]~~ shall be in
1648 a lower degree, as to which there is no reasonable doubt; and

1649 (d) the burden of proof to establish the guilt of the accused beyond a reasonable doubt
1650 is on the state.

1651 (3) (a) Voting by members of a military court on the findings and on the sentence, and
1652 upon questions of challenge, are by secret written ballot.

1653 (b) The junior member of the court counts the votes.

1654 (c) The count shall be reviewed by the president, who shall immediately announce the
1655 result of the ballot to the members of the court.

1656 (4) (a) ~~[Subsections (1), (2), and (3) do not apply to a court]~~ If the court is composed of
1657 a military judge only, ~~[as]~~ the military judge ~~[of a court]~~ determines all questions of law and
1658 fact arising during the proceedings. If the accused is convicted, the judge imposes the sentence.

1659 (b) The military judge of a court shall make a general finding and shall ~~[in addition]~~,
1660 on request, find the facts specially.

1661 (c) If an opinion or memorandum of decision is filed, it is sufficient if the findings of
1662 fact are included.

1663 Section 79. Section **39A-5-223**, which is renumbered from Section 39-6-45 is
1664 renumbered and amended to read:

1665 ~~[39-6-45].~~ **39A-5-223. Vote necessary for conviction or other questions -- Tie**
1666 **votes.**

1667 (1) ~~[A person]~~ The accused may not be convicted of any offense except by a
1668 unanimous verdict of the members of the court present at the time the vote is taken.

1669 (2) ~~[(a)]~~ All other questions decided by the members of a military court are determined
1670 by a majority vote. ~~[However, a]~~ A determination to reconsider a finding of guilty, to
1671 reconsider a sentence, or to decrease ~~[it]~~ a sentence, may be made by any lesser vote which
1672 indicates that the reconsideration is not opposed by the number of votes required for that
1673 finding or sentence.

1674 ~~[(b)]~~ (3) (a) A tie vote on a challenge disqualifies the member challenged.

1675 (b) A tie vote on a motion for a finding of not guilty or on a motion relating to the
1676 question of the accused's sanity is a determination against the accused.

1677 (c) A tie vote on any other question is a determination in favor of the accused.

1678 Section 80. Section **39A-5-224**, which is renumbered from Section 39-6-46 is
1679 renumbered and amended to read:

1680 ~~[39-6-46].~~ **39A-5-224. Findings -- Background check prior to sentencing.**

1681 (1) A court shall announce its findings and sentence to the parties as soon as
1682 determined.

1683 (2) The court panel may defer sentencing pending an investigation of the background
1684 of the accused to determine a just and appropriate sentence.

1685 Section 81. Section **39A-5-225**, which is renumbered from Section 39-6-52 is
1686 renumbered and amended to read:

1687 ~~[39-6-52].~~ **39A-5-225. Finding or sentence -- Error -- Review.**

1688 (1) A finding or sentence of a military court may not be held incorrect on the ground of
1689 an error of law unless the error materially prejudices the substantial rights of the accused.

1690 (2) A reviewing authority with the power to approve or affirm a finding of guilty may
1691 approve or affirm that portion of the finding that includes a lesser included offense.

1692 Section 82. Section **39A-5-226**, which is renumbered from Section 39-6-47 is
1693 renumbered and amended to read:

1694 ~~[39-6-47].~~ **39A-5-226. Military court records.**

1695 (1) (a) Each military court shall maintain a separate record of the proceedings in each
1696 case brought before it. ~~[The]~~ Each record shall be authenticated by the signature of the military
1697 judge.

1698 (b) (i) If the record cannot be authenticated by the military judge due to ~~[his]~~ death,
1699 disability, or absence, it shall be authenticated by the signature of the trial counsel.

1700 (ii) If the trial counsel is unable to authenticate due to [his] death, disability, or
1701 absence, a member of the court panel shall authenticate the record by [his] signature.

1702 (c) In a court of only a military judge, the record shall be authenticated by the court
1703 reporter under the same conditions that a member of a court would authenticate under this
1704 section[;]:

1705 (i) if the proceedings have resulted in an acquittal of all charges and specifications; or[;
1706 if]

1707 (ii) if the proceedings are not affecting a general or flag officer, [in] for a sentence that
1708 does not [including] include a discharge and is not in excess of that which may be prescribed
1709 by regulations of the governor.

1710 (2) A copy of the record of the proceedings of each court shall be given to the accused
1711 as soon as it is authenticated.

1712 (3) The expense in preparing and transmitting the record shall be by regulations
1713 prescribed by the governor or the adjutant general.

1714 Section 83. Section **39A-5-227**, which is renumbered from Section 39-6-53 is
1715 renumbered and amended to read:

1716 ~~[39-6-53].~~ **39A-5-227. Trial record forwarded to convening authority.**

1717 After a trial by a military court, the record shall be forwarded to the convening
1718 authority, as the reviewing authority. Action on the record may be taken by the [person who
1719 convened the court] convening authority, a commissioned officer commanding at that time, a
1720 successor in command, or by the governor.

1721 Section 84. Section **39A-5-228**, which is renumbered from Section 39-6-54 is
1722 renumbered and amended to read:

1723 ~~[39-6-54].~~ **39A-5-228. Convening authority refers record to SJA -- Opinion.**

1724 The convening authority shall refer the record of each military court to the SJA, who
1725 shall submit a written opinion to the convening authority. If the final action of the court is an
1726 acquittal of all charges and specifications, the opinion is limited to questions of jurisdiction.

1727 Section 85. Section **39A-5-229**, which is renumbered from Section 39-6-55 is
1728 renumbered and amended to read:

1729 ~~[39-6-55].~~ **39A-5-229. Specification dismissal -- No finding of not guilty --**

1730 **Procedure.**

1731 (1) If a specification before a military court has been dismissed on motion and the
 1732 ruling does not amount to a finding of not guilty, the convening authority may return the record
 1733 to the court for reconsideration of the ruling and any further appropriate action.

1734 (2) If there is an apparent error or omission in the record or the record shows improper
 1735 or inconsistent action by a court martial regarding a finding or sentence, that may be rectified
 1736 without material prejudice to the substantial rights of the accused, the convening authority may
 1737 return the record to the court for appropriate action. However, the record may not be returned
 1738 for:

1739 (a) reconsideration of a finding of not guilty of any specification, or a ruling which
 1740 amounts to a finding of not guilty;

1741 (b) reconsideration of a finding of not guilty of any charge unless the record shows a
 1742 finding of guilty under a specification laid under that charge, which sufficiently alleges a
 1743 violation of a provision of this chapter; or

1744 (c) increasing the severity of the sentence.

1745 Section 86. Section **39A-5-230**, which is renumbered from Section 39-6-56 is
 1746 renumbered and amended to read:

1747 **[39-6-56]. 39A-5-230. Rehearing ordered by convening authority -- Grounds --**
 1748 **Procedure.**

1749 (1) (a) If the convening authority disapproves the findings and sentence of a military
 1750 court [~~he may, except if~~], the convening authority may, unless there is a lack of sufficient
 1751 evidence in the record to support the findings, order a rehearing, and [~~shall~~] state the reasons
 1752 for disapproval.

1753 (b) If [~~he~~] the convening authority disapproves the findings and sentence and does not
 1754 order a rehearing, [~~he shall dismiss~~] the charges shall be dismissed.

1755 (2) (a) Each rehearing shall take place before a military court composed of members
 1756 who are not members of the military court that [~~first~~] originally heard the case.

1757 (b) At a rehearing, the accused may not be tried for any offense [~~of~~] for which [~~he was~~
 1758 ~~found~~] a verdict of not guilty was returned by the [~~first~~] original military court.

1759 (3) A sentence imposed may not exceed or be more severe than the original sentence,
 1760 unless based on a finding of guilty regarding an offense not considered on the merits in the
 1761 original proceedings.

1762 Section 87. Section **39A-5-231**, which is renumbered from Section 39-6-58 is
1763 renumbered and amended to read:

1764 ~~[39-6-58]~~. **39A-5-231. Convening authority review -- Action by governor final**
1765 **-- SJA review -- Appeal of final action.**

1766 (1) When the governor is the convening authority, the governor's action on the review
1767 of a record of trial is final.

1768 (2) The state judge advocate shall review the record of trial in each case prior to final
1769 action being taken.

1770 (3) The SJA shall make a written review and recommendation on legal issues to the
1771 convening authority for ~~[its]~~ consideration prior to final action in any case.

1772 (4) In a case subject to review by the SJA under this section, the SJA shall submit an
1773 opinion regarding any errors committed during the trial and an analysis of the legal effect of the
1774 error to the convening authority prior to ~~[its]~~ the convening authority's affirmation and action
1775 regarding the findings and sentence in the case.

1776 (5) The convening authority may affirm only findings of guilty and the sentence or part
1777 of the sentence that:

1778 (a) is correct in law and fact; and

1779 (b) should be approved, based on the entire record and the advice of the SJA, and any
1780 rebuttal submitted by the accused or defense counsel.

1781 (6) In considering the record, the convening authority may weigh the evidence, judge
1782 the credibility of witnesses, and determine controverted questions of fact, recognizing that the
1783 trial court saw and heard the testimony of the witnesses.

1784 (7) If the convening authority sets aside the findings and sentence:

1785 (a) a rehearing may be ordered, except when the decision to set aside is based on a lack
1786 of sufficient evidence in the record to support the findings; or

1787 (b) if a rehearing is not ordered, the charges shall be dismissed.

1788 (8) (a) Final action approved by the convening authority may be appealed directly to
1789 the Utah Court of Appeals.

1790 (b) Notice of appeal shall be filed within 30 days after the final action has been taken
1791 by the convening authority.

1792 Section 88. Section **39A-5-232**, which is renumbered from Section 39-6-59 is

1793 renumbered and amended to read:

1794 ~~[39-6-59]~~. 39A-5-232. Military court sentence -- Execution by convening
1795 authority.

1796 (1) Except under Sections ~~[39-6-17 and 39-6-58]~~ 39A-5-306 and 39A-5-231, a military
1797 court sentence may be ordered executed by the convening authority when approved ~~[by him]~~,
1798 unless suspended or deferred.

1799 (2) The convening authority ~~[shall, in his]~~ has discretion~~[;]~~ to approve the sentence or
1800 ~~[the]~~ a part or commuted form of the sentence.

1801 (3) After ~~[his]~~ approval, ~~[he]~~ the convening authority may suspend the execution of the
1802 sentence.

1803 Section 89. Section 39A-5-233, which is renumbered from Section 39-6-61 is
1804 renumbered and amended to read:

1805 ~~[39-6-61]~~. 39A-5-233. Probation violation -- Hearing -- Counsel -- Execution of
1806 suspended sentence.

1807 (1) Probation imposed as a result of a suspended sentence may be vacated by the
1808 convening authority.

1809 (2) (a) Before ~~[the vacation of the suspension of]~~ a suspended military court sentence
1810 may be vacated, the officer holding convening authority jurisdiction over the probationer shall
1811 hold a hearing on the alleged violation of probation.

1812 (b) The probationer shall be represented by counsel at the hearing.

1813 ~~[(2)]~~ (3) (a) The record of the hearing and the recommendation of the officer having
1814 jurisdiction shall be sent for action to:

1815 (i) the governor in cases involving a military court sentence of confinement~~[, and];~~ or

1816 (ii) in all other cases, to the commanding officer of the ~~[unit of the]~~ National Guard
1817 unit of which the probationer is a member~~[, in all other cases]~~.

1818 (b) If the governor or commanding officer vacates the suspension, any unexecuted part
1819 of the sentence except a dismissal shall be executed.

1820 ~~[(3)]~~ (4) The suspension of any other sentence may be vacated by any authority for the
1821 command in which the accused is serving or assigned that is competent to convene~~[, for the~~
1822 command in which the accused is serving or assigned,] a court that imposed the sentence.

1823 Section 90. Section 39A-5-234, which is renumbered from Section 39-6-62 is

1824 renumbered and amended to read:

1825 ~~[39-6-62]~~. 39A-5-234. **Petition for new trial -- Grounds.**

1826 Within 30 days after approval by the convening authority of a military court sentence,
1827 the accused may petition the convening authority for a new trial on the ground of newly
1828 discovered evidence or fraud on the court.

1829 Section 91. Section 39A-5-235, which is renumbered from Section 39-6-37 is
1830 renumbered and amended to read:

1831 ~~[39-6-37]~~. 39A-5-235. **Second trial on an offense prohibited.**

1832 (1) ~~[A person]~~ An individual may not, without ~~[his]~~ the individual's written consent, be
1833 brought to trial a second time in any military or civilian court of the state for the same offense.

1834 (2) A proceeding in which an accused has been found guilty by a military court upon
1835 any charge or specification, is not a trial under this section until the finding of guilty has
1836 become final and the review of the case has been completed.

1837 (3) A proceeding that, after the introduction of evidence but before a finding, is
1838 dismissed or terminated by the convening authority or on motion of the prosecution for failure
1839 of available evidence or witnesses without any fault of the accused is a trial under this section.

1840 Section 92. Section 39A-5-236, which is renumbered from Section 39-6-63 is
1841 renumbered and amended to read:

1842 ~~[39-6-63]~~. 39A-5-236. **Sentence -- Vacation or suspension.**

1843 (1) A convening authority may ~~[remit]~~ vacate or suspend any part or amount of the
1844 unexecuted portion of the sentence, including all uncollected forfeitures.

1845 (2) The governor may for good cause shown substitute an administrative form of a
1846 discharge for a bad conduct discharge or dismissal executed under a military court sentence.

1847 Section 93. Section 39A-5-237, which is renumbered from Section 39-6-64 is
1848 renumbered and amended to read:

1849 ~~[39-6-64]~~. 39A-5-237. **Sentence set aside -- Rights restored.**

1850 (1) Under rules prescribed by the governor or the adjutant general all rights, privileges,
1851 and property affected by an executed portion of a military court sentence which has been set
1852 aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new
1853 trial or rehearing is ordered and the executed part is included in a sentence imposed upon the
1854 new trial or rehearing.

1855 (2) If a previously executed sentence of bad conduct discharge is not imposed in a new
1856 trial, the governor shall substitute a discharge authorized for administrative issue, unless the
1857 accused is serving the remainder of his or her enlistment.

1858 (3) (a) If a previously executed sentence of dismissal is not imposed in a new trial, the
1859 governor shall substitute a discharge authorized for administrative issue.

1860 (b) [~~The~~] A commissioned officer dismissed by [~~the~~] a sentence may be reappointed by
1861 the governor to the grade and rank [~~he~~] the commissioned officer had attained, if a position is
1862 available under the applicable organization.

1863 (c) Time between the dismissal and reappointment is considered service for all
1864 purposes.

1865 Section 94. Section **39A-5-238**, which is renumbered from Section 39-6-65 is
1866 renumbered and amended to read:

1867 ~~[39-6-65]~~. **39A-5-238. Finality of military court judgments.**

1868 (1) The proceedings, findings, and sentence a military court has reviewed and approved
1869 under this chapter, and all dismissals and discharges executed under sentences by military court
1870 following review and approval under this chapter, are final and conclusive.

1871 (2) Orders publishing the proceedings of military court and all action taken pursuant to
1872 those proceedings are binding upon all departments, courts, agencies, and officers of the state,
1873 subject only to action upon a petition for new trial under Section ~~[39-6-62]~~ 39A-5-234.

1874 Section 95. Section **39A-5-239**, which is renumbered from Section 39-6-107 is
1875 renumbered and amended to read:

1876 ~~[39-6-107]~~. **39A-5-239. Courts of inquiry.**

1877 (1) Courts of inquiry to investigate any matter may be convened by the governor or his
1878 designee, whether or not the [~~persons~~] individuals involved have requested the inquiry.

1879 (2) A court of inquiry consists of three or more commissioned officers. For each court,
1880 the convening authority shall also appoint counsel for the court.

1881 (3) (a) [~~A person~~] An individual subject to this chapter whose conduct is subject to
1882 inquiry shall be designated as a party. [~~A person~~] An individual subject to this chapter or
1883 employed by the National Guard, who has a direct interest in the subject of inquiry, has the
1884 right to be designated as a party upon request to the court.

1885 (b) [~~A person~~] An individual designated as a party shall be given due notice and has the

1886 right to be present, represented by counsel, to have counsel appointed, to cross examine
1887 witnesses, and to introduce evidence.

1888 (4) Members of a court of inquiry may be challenged by a party, but only for cause
1889 stated to the court.

1890 (5) The members, counsel, ~~[the]~~ reporter, and interpreters of a court of inquiry shall
1891 take an oath or affirmation to faithfully perform ~~[their duties]~~ the duties required under this
1892 section.

1893 (6) Witnesses may be summoned to appear and testify and be examined before a court
1894 of inquiry, under the same provisions as for a military court.

1895 (7) A court of inquiry shall make findings of fact but may not express opinions or make
1896 recommendations, unless required to do so by the convening authority.

1897 (8) (a) A court of inquiry shall keep a record of ~~[its]~~ the court's proceedings, which
1898 shall be authenticated by the signatures of the president and counsel for the court and
1899 forwarded to the convening authority.

1900 (b) (i) If the record cannot be authenticated by the president, it shall be signed by a
1901 member in lieu of the president.

1902 (ii) If the record cannot be authenticated by the counsel for the court, it shall be
1903 authenticated by a member in lieu of the counsel.

1904 Section 96. Section **39A-5-301**, which is renumbered from Section 39-6-49 is
1905 renumbered and amended to read:

1906 **Part 3. Military Punishments**

1907 ~~[39-6-49].~~ **39A-5-301. Military punishments -- Limits of punishment -- Cruel**
1908 **and unusual punishments -- Use of irons.**

1909 (1) Punishment directed by a military court for an offense may not exceed limits
1910 prescribed under ~~[Section 39-1-38.5]~~ Subsection (2) or lesser limits prescribed by the governor
1911 [may prescribe] for the offense.

1912 (2) A military court may impose upon an accused any of the following after conviction
1913 for an offense:

1914 (a) incarceration in a county jail for no longer than one year;

1915 (b) a fine of not more than \$2,500;

1916 (c) forfeiture of pay of not more than \$2,500;

- 1917 (d) detention of pay equivalent to three months' pay for a period not to exceed one
 1918 year;
 1919 (e) arrest in quarters for officers;
 1920 (f) restriction to specified limits for enlisted members;
 1921 (g) extra duty for not more than 60 consecutive days;
 1922 (h) reprimand;
 1923 (i) reduction of enlisted members to the lowest enlisted grade;
 1924 (j) a bad conduct discharge for enlisted members;
 1925 (k) dismissal for officers;
 1926 (l) restitution to any individual or entity injured as a result of the accused's conduct; or
 1927 (m) any combination of Subsections (2)(a) through (2)(l).
 1928 (3) Cruel or unusual punishments, including flogging, branding, marking, or tattooing
 1929 on the body may not be imposed by any court or inflicted upon any individual subject to this
 1930 chapter.

1931 (4) Single or double irons may not be used unless necessary for safe custody.

1932 Section 97. Section **39A-5-302**, which is renumbered from Section 39-6-14 is
 1933 renumbered and amended to read:

1934 **~~[39-6-14].~~ 39A-5-302. Nonjudicial punishment.**

1935 (1) The governor and the adjutant general of Utah may prescribe regulations governing
 1936 the administration of nonjudicial punishment. The imposition and enforcement of disciplinary
 1937 punishment under this section for any act or omission is not a bar to trial by a civilian court of
 1938 competent jurisdiction.

1939 (2) A service member subject to this chapter may request trial by military court in lieu
 1940 of nonjudicial punishment at any time prior to imposition of nonjudicial punishment.

1941 (a) Upon receipt of a timely request for trial by military court in lieu of nonjudicial
 1942 punishment, the commanding officer may grant the request, or deny the request and continue
 1943 with nonjudicial punishment proceedings. If the commander denies the member's request for
 1944 trial by military court, the commander may not impose limitations on personal liberty as a
 1945 punishment under nonjudicial punishment proceedings. For purposes of this section,
 1946 punishments imposing limitations on personal liberty include restriction to specific limited
 1947 areas and extra duties.

1948 (b) Denial of a request for trial by military court in lieu of nonjudicial punishment does
1949 not create a private right of action and is not subject to judicial review.

1950 (3) Any commanding officer in the [~~Utah~~] National Guard may, in addition to a
1951 reprimand, impose one or more of the punishments under this section without the intervention
1952 of a military court.

1953 (a) Forfeiture of pay shall be calculated based on the monthly amount a service
1954 member would receive as base pay if on active duty.

1955 (b) If a reduction of pay grade is imposed, forfeiture of pay is based on the grade to
1956 which the service member was reduced even if the reduction was suspended.

1957 (4) Punishment imposed by the governor, a general officer, or a full colonel upon
1958 officers within the general officer's or full colonel's command may include:

1959 (a) forfeiture of not more than one-half of one month's pay per month for three months;
1960 and

1961 (b) restriction to specific limited areas, with or without suspension from duty, for not
1962 more than 60 consecutive days.

1963 (5) Punishment imposed by the governor, a general officer, or a full colonel upon
1964 enlisted personnel within the general officer's or full colonel's command may include:

1965 (a) forfeiture of not more than one-half of one month's pay per month for two months;

1966 (b) reduction of one or more pay grades if the imposing commander holds promotion
1967 authority over the grade from which the enlisted [~~person~~] member was demoted, but an enlisted
1968 member in a pay grade above E-4 may not be reduced more than two pay grades;

1969 (c) extra duties, including fatigue or other duties, for not more than 60 consecutive
1970 days; and

1971 (d) restriction to specific limited areas, with or without suspension from duty, for not
1972 more than 60 consecutive days.

1973 (6) Punishment imposed by a commander of the grade of lieutenant colonel or major
1974 upon enlisted personnel within the lieutenant colonel's or major's command may include:

1975 (a) forfeiture of not more than one-half of one month's pay per month for two months;

1976 (b) reduction of no more than two pay grades if the imposing commander holds
1977 promotion authority over the grade from which the enlisted [~~person~~] member was demoted;

1978 (c) extra duties, including fatigue or other duties, for not more than 45 consecutive

1979 days; and

1980 (d) restriction to specific limited areas, with or without suspension of duty, for not
1981 more than 45 consecutive days.

1982 (7) Punishment imposed by a commander of the grade of captain or lieutenant upon
1983 enlisted personnel within the captain's or lieutenant's command may include:

1984 (a) forfeiture of not more than one-half of one month's pay for one month;

1985 (b) extra duties, including fatigue or other duties, for not more than 30 consecutive
1986 days;

1987 (c) restriction to specific limited areas, with or without suspension from duty, for not
1988 more than 30 consecutive days; and

1989 (d) reduction of one pay grade if the imposing commander holds promotion authority
1990 over the grade from which the enlisted [~~person~~] member was demoted.

1991 (8) Punishments of restriction to specific limited areas and extra duty may be combined
1992 to run concurrently, but the combination may not exceed the maximum duration imposable for
1993 extra duty.

1994 (9) (a) The imposing commander or a successor in command may, at any time, suspend
1995 by probation:

1996 (i) all or any part of the amount of the unexecuted punishment; and

1997 (ii) a reduction in grade or a forfeiture imposed, whether or not executed.

1998 (b) The imposing commander or a successor in command shall set the terms of
1999 probation for any suspended punishment.

2000 (c) The imposing commander or a successor in command may, at any time, [~~remit~~]
2001 vacate or mitigate any part or amount of the unexecuted punishment. The imposing
2002 commander or a successor in command may also set aside in whole or in part the findings,
2003 punishment, or both, whether executed or unexecuted, and restore all rights, privileges, and
2004 affected property.

2005 (d) The imposing commander or a successor in command may mitigate reduction in
2006 grade to forfeiture of pay. Extra duties may be mitigated to restriction.

2007 (e) A mitigated punishment may not span a greater period of time than the original
2008 punishment.

2009 (f) When mitigating a reduction in grade to forfeiture of pay, the amount of the

2010 forfeiture may not exceed the maximum allowable forfeiture the imposing commander could
2011 have originally imposed.

2012 (10) (a) A service member punished under this section may appeal to the next superior
2013 commander in the service member's chain of command. The next superior commander shall
2014 conduct a de novo review of both the findings and punishment under procedures provided by
2015 regulation. The next superior commander may modify or set aside the findings or punishment,
2016 having the same options afforded the imposing commander as described in this section. In no
2017 case may the next superior commander increase the severity of the findings or the amount of
2018 punishment originally imposed.

2019 (b) If two levels of command exist above the imposing commander, the service
2020 member, having exhausted the service member's first level of appeal, may appeal to the next
2021 superior commander. If the matter originates with the governor, the adjutant general, or one
2022 level of command below the adjutant general, no right to a second appeal exists. The decision
2023 of the adjutant general on an appeal of nonjudicial punishment is final and is not subject to
2024 further appeal or judicial review.

2025 (c) The decision of the governor or the adjutant general to impose nonjudicial
2026 punishment upon a service member is final and is not subject to further appeal or judicial
2027 review.

2028 (d) The imposing commander shall promptly forward any appeal to the next superior
2029 commander. During the course of the appeal, the imposing commander may require the
2030 appellant to submit to the imposed punishment.

2031 (11) A superior commander shall first obtain a legal review from a judge advocate of
2032 the Utah National Guard before acting on an appeal from any of the following imposed
2033 punishments:

- 2034 (a) forfeiture of more than seven day's pay;
- 2035 (b) reduction of one or more pay grades;
- 2036 (c) extra duties for more than 14 days; or
- 2037 (d) restriction for more than 14 days.

2038 (12) Punishments imposed under this section, except forfeiture of pay, may not extend
2039 beyond the termination of the duty status of the punished individual.

2040 Section 98. Section **39A-5-303**, which is renumbered from Section 39-6-110 is

2041 renumbered and amended to read:

2042 ~~[39-6-110]~~. **39A-5-303. Fines.**

2043 (1) Fines imposed by a military court may be paid to ~~[a]~~ the military court or to an
2044 officer executing ~~[its]~~ process for the court. The amount of the fine may be noted upon any
2045 state roll or account for pay of the delinquent and deducted from any pay or allowance due or to
2046 become due to ~~[him]~~ the individual fined, until the fine is completely paid.

2047 (2) Any sum deducted shall be turned in to the military court which imposed the fine
2048 and shall be paid by the officer receiving it under the same procedure as for fines and other
2049 money collected under a sentence of a military court.

2050 (3) A fine or penalty imposed by a military court upon an officer or enlisted ~~[person]~~
2051 member shall be paid by the officer collecting it to the state General Fund~~;~~ within 30 days.

2052 Section 99. Section **39A-5-304**, which is renumbered from Section 39-6-50 is
2053 renumbered and amended to read:

2054 ~~[39-6-50]~~. **39A-5-304. Forfeiture of pay as sentence.**

2055 (1) When a lawful and approved sentence of a court includes a forfeiture of pay or
2056 allowances in addition to confinement that is not suspended or deferred, the forfeiture may
2057 apply to pay or allowances becoming due on or after the date the sentence is approved by the
2058 convening authority.

2059 (2) A forfeiture may not extend to any pay or allowances ~~[acquired]~~ received before
2060 that date.

2061 Section 100. Section **39A-5-305**, which is renumbered from Section 39-6-51 is
2062 renumbered and amended to read:

2063 ~~[39-6-51]~~. **39A-5-305. Confinement as sentence -- Penal institutions.**

2064 (1) A sentence of confinement imposed by a military court, whether or not it includes
2065 discharge or dismissal and whether or not the discharge or dismissal has been executed, may be
2066 carried into execution by confinement in any place of confinement under the control of any of
2067 the forces of the National Guard or in any ~~[jail, penitentiary, or prison under the control]~~ penal
2068 institution of the state or of any political subdivision of the state.

2069 (2) If the words "hard labor" are not included in a sentence or punishment imposed by a
2070 court martial imposing confinement, the authority executing the sentence or punishment is not
2071 prohibited from requiring hard labor as a part of the sentence or punishment.

2072 (3) The ~~[keepers,]~~ officers, sheriffs, and ~~[wardens of]~~ penal institutions of the state and
2073 ~~[its]~~ any political subdivisions of the state designated by the governor or his designee under
2074 Section ~~[39-6-10]~~ 39A-5-111 shall:

- 2075 (a) receive ~~[persons]~~ individuals ordered into confinement before trial and ~~[persons]~~
- 2076 individuals committed to confinement by a military court;
- 2077 (b) confine them according to law; and
- 2078 (c) receive or confine ~~[a person]~~ an individual under this chapter without assessing any
- 2079 fee or charge.

2080 Section 101. Section **39A-5-306**, which is renumbered from Section 39-6-17 is
2081 renumbered and amended to read:

2082 ~~[39-6-17]~~. **39A-5-306. Bad conduct discharge or dismissal -- Approval by**
2083 **governor.**

2084 (1) A sentence imposing dismissal or bad conduct discharge against a member of the
2085 National Guard who is not in federal service may not be executed until it is approved by the
2086 governor.

2087 (2) A discharge or dismissal may not be imposed by any military court unless a
2088 complete written record of the proceedings has been made and is available for consideration of
2089 the military court.

2090 Section 102. Section **39A-6-101**, which is renumbered from Section 39-7-102 is
2091 renumbered and amended to read:

2092 **CHAPTER 6. UTAH SERVICE MEMBERS' CIVIL RELIEF ACT**

2093 ~~[39-7-102]~~. **39A-6-101. Utah Service Members' Civil Relief Act -- Definitions.**

2094 As used in this chapter:

2095 (1) "Dependent" means the spouse and children of a service member or any other
2096 ~~[person]~~ individual dependent upon the service member for support.

2097 (2) "Interest" includes service charges, renewal charges, fees, or any other charges in
2098 respect to any obligation or liability.

2099 (3) "Service member" means any member of the Utah National Guard or Utah State
2100 Defense Force serving on active military service in an organized military unit.

2101 ~~[(3) "Military"]~~ (4) "State military service" means active, full-time service with a
2102 recognized military unit called into service by the governor for at least 30 days.

2103 [~~(4) "Service member" means any member of the National Guard serving on active~~
2104 ~~military service in an organized military unit.]~~

2105 Section 103. Section **39A-6-102** is enacted to read:

2106 **39A-6-102. Application of this chapter.**

2107 (1) Military members of the National Guard or the Defense Force, when ordered to
2108 state military service by the governor have the same rights and protections as provided by
2109 federal law for activation to federal military service.

2110 (2) Proper application of this chapter shall suspend or postpone actions upon certain
2111 obligations until 60 days after discharge from active, full-time state military service.

2112 Section 104. Section **39A-6-103**, which is renumbered from Section 39-7-119 is
2113 renumbered and amended to read:

2114 [~~39-7-119~~]. **39A-6-103. Rulemaking authority.**

2115 The [~~Adjutant General~~] adjutant general may make rules in accordance with Title 63G,
2116 Chapter 3, Utah Administrative Rulemaking Act, to implement this chapter.

2117 Section 105. Section **39A-6-104**, which is renumbered from Section 39-7-104 is
2118 renumbered and amended to read:

2119 [~~39-7-104~~]. **39A-6-104. Reopening default judgments.**

2120 (1) A default judgment rendered in any civil action against a service member during a
2121 period of state military service or within 30 days after termination of the state military service
2122 may be set aside if:

2123 (a) it appears that the [~~person~~] service member was prejudiced by reason of [~~his~~] the
2124 service member's state military service in making a defense to the action;

2125 (b) application by the [~~person~~] service member or [~~his~~] the service member's legal
2126 representative is made to the court rendering the judgment not later than 60 days after the
2127 termination of the service member's state military service; and

2128 (c) the application provides enough facts that it appears that the defendant has a
2129 meritorious or legal defense to the action or some part of the action.

2130 (2) Vacating, setting aside, or reversing any judgment because of any of the provisions
2131 of this chapter may not impair any right or title acquired by any bona fide purchaser for value
2132 under the judgment.

2133 Section 106. Section **39A-6-105**, which is renumbered from Section 39-7-105 is

2134 renumbered and amended to read:

2135 ~~[39-7-105]~~. 39A-6-105. Stay of proceedings.

2136 (1) If at any point during an action or proceeding it appears that a plaintiff or defendant
2137 is a service member and in the conduct of the proceedings may be adversely affected by [his]
2138 the service member's state military service, the court may, on its own motion, stay the
2139 proceedings.

2140 (2) The court may stay the proceedings if the service member or another [person]
2141 individual on [his] the service member's behalf makes a request in writing to the court, unless
2142 the court determines on the record that the ability of the plaintiff to pursue the action or the
2143 defendant to conduct [his] a defense is not materially affected by reason of [his] the service
2144 member's state military service.

2145 Section 107. Section 39A-6-106, which is renumbered from Section 39-7-106 is
2146 renumbered and amended to read:

2147 ~~[39-7-106]~~. 39A-6-106. Fines and penalties on contracts.

2148 (1) If compliance with the terms of a contract is stayed pursuant to this chapter, a fine
2149 or penalty may not accrue by reason of failure to comply during the period of the stay.

2150 (2) If a service member has not obtained a stay and a fine or penalty is imposed for
2151 nonperformance of an obligation, a court may relieve enforcement if the service member was in
2152 state military service when the penalty was incurred and [his] the service member's ability to
2153 pay or perform was materially impaired.

2154 Section 108. Section 39A-6-107, which is renumbered from Section 39-7-107 is
2155 renumbered and amended to read:

2156 ~~[39-7-107]~~. 39A-6-107. Exercise of rights not to affect future financial
2157 transactions.

2158 Application by a service member in state military service for, or receipt of, a stay,
2159 postponement, or suspension under the provisions of this chapter in the payment of any fine,
2160 penalty, insurance premium, or other civil obligation or liability may not be used for any of the
2161 following:

2162 (1) a determination by any lender or other person that the service member is unable to
2163 pay any civil obligation or liability in accordance with its terms;

2164 (2) with respect to a credit transaction between a creditor and a service member:

- 2165 (a) a denial or revocation of credit by the creditor;
2166 (b) a change by the creditor in the terms of an existing credit arrangement; or
2167 (c) a refusal by the creditor to grant credit to the service member in substantially the
2168 amount or on substantially the terms requested; or
2169 (3) an adverse report relating to the creditworthiness of the service member by or to
2170 any person or entity engaged in the practice of assembling or evaluating consumer credit
2171 information.

2172 Section 109. Section **39A-6-108**, which is renumbered from Section 39-7-108 is
2173 renumbered and amended to read:

2174 ~~[39-7-108]~~. **39A-6-108. Stay of execution of judgment.**

2175 Unless the court determines on the record that the ability of the service member to
2176 comply with the judgment or order entered or sought is not materially affected by reason of
2177 ~~[his]~~ the service member's state military service, the court may, on its own motion, or upon
2178 application ~~[to it]~~ by the service member or another ~~[person on his]~~ individual on the service
2179 member's behalf:

- 2180 (1) stay the execution of any judgment or order entered against the service member, as
2181 provided in this chapter; and
2182 (2) vacate or stay any attachment or garnishment of property, money, or debts in the
2183 hands of another, whether before or after judgment as provided in this chapter.

2184 Section 110. Section **39A-6-109**, which is renumbered from Section 39-7-109 is
2185 renumbered and amended to read:

2186 ~~[39-7-109]~~. **39A-6-109. Duration of stays.**

2187 (1) Any stay of any action, proceeding, attachment, or execution, ordered by any court
2188 under the provisions of this chapter may be ordered for the period of state military service plus
2189 60 days after its termination or any part of that time period.

2190 (2) ~~[Where]~~ If the service member in state military service is a codefendant with others,
2191 the plaintiff may, with leave of the court, proceed against the others.

2192 Section 111. Section **39A-6-110**, which is renumbered from Section 39-7-110 is
2193 renumbered and amended to read:

2194 ~~[39-7-110]~~. **39A-6-110. Statutes of limitations affected by state military service.**

2195 The period of state military service is not included in computing any period limited by

2196 law, rule, or order for the bringing of any action or proceeding in any court, board, bureau,
2197 commission, department, or other agency of government by or against any ~~[person]~~ individual
2198 in state military service or by or against ~~[his]~~ the service member's heirs, executors,
2199 administrators, or assigns, whether the cause of action or the right or privilege to institute the
2200 action or proceeding has accrued prior to or during the period of state military service.

2201 Section 112. Section **39A-6-111**, which is renumbered from Section 39-7-111 is
2202 renumbered and amended to read:

2203 ~~[39-7-111]~~. **39A-6-111**. **Maximum rate of interest.**

2204 An obligation or liability bearing interest at a rate in excess of six percent per year
2205 incurred by a service member in state military service before ~~[his]~~ the service member's entry
2206 into state military service may not, during any part of the period of state military service, bear
2207 interest at a rate in excess of six percent per year unless, in the opinion of the court and upon
2208 application to the court by the obligee, the ability of the service member to pay interest upon
2209 the obligation or liability at a rate in excess of six percent per year is not materially affected by
2210 reason of ~~[his]~~ the service member's service. The court may make any order in the action that,
2211 in ~~[its]~~ the court's opinion, is just.

2212 Section 113. Section **39A-6-112**, which is renumbered from Section 39-7-112 is
2213 renumbered and amended to read:

2214 ~~[39-7-112]~~. **39A-6-112**. **Dependent benefits.**

2215 Dependents of a service member in state military service are entitled to the benefits
2216 accorded to service members in state military service under the provisions of Sections
2217 ~~[39-7-113 through 39-7-117]~~ 39A-6-113 through 39A-6-117 upon application to a court,
2218 unless, in the opinion of the court, the ability of the dependents to comply with the terms of the
2219 obligation, contract, lease, or bailment has not been materially impaired by reason of the state
2220 military service of the service member upon whom the applicants are dependent.

2221 Section 114. Section **39A-6-113**, which is renumbered from Section 39-7-113 is
2222 renumbered and amended to read:

2223 ~~[39-7-113]~~. **39A-6-113**. **Eviction or distress of dependents.**

2224 (1) A landlord may not evict or take and hold property of a service member or the
2225 service member's dependents for nonpayment of rent during the period of state military service
2226 if the rent on the premises occupied by the service member or the service member's dependents

2227 is less than \$2,400 per month unless a court allows it after application to the court and an order
2228 granted in an action or proceeding affecting the right of possession.

2229 (2) In any action affecting the right of possession, the court may, on its own motion,
2230 stay the proceedings for not longer than three months, or make any order the court determines
2231 to be reasonable and just under the circumstances, unless the court finds that the ability of the
2232 tenant to pay the agreed rent is not materially affected by reason of the service member's state
2233 military service.

2234 (3) When a stay is granted or other order is made by the court, the owner of the
2235 premises shall be entitled, upon application, to relief with respect to the premises similar to that
2236 granted service members in military service in Sections [~~39-7-114 through 39-7-116~~]
2237 39A-6-114 through 39A-6-116 to the extent and for any period as the court determines to be
2238 just and reasonable under the circumstances.

2239 (4) Any person who knowingly takes part in any eviction or distress otherwise than as
2240 provided in Subsection (1), or attempts to do so, is guilty of a class B misdemeanor.

2241 (5) The governor is empowered to order an allotment of the pay of a service member in
2242 state military service in reasonable proportion to discharge the rent of premises occupied for
2243 dwelling purposes by any dependents of the service member.

2244 Section 115. Section **39A-6-114**, which is renumbered from Section 39-7-114 is
2245 renumbered and amended to read:

2246 [~~39-7-114~~]. **39A-6-114. Installment contracts.**

2247 (1) The creditor of a service member who, prior to entry into state military service, has
2248 entered into an installment contract for the purchase of real or personal property may not
2249 terminate the contract or repossess the property for nonpayment or any breach occurring during
2250 military service without an order from a court of competent jurisdiction.

2251 (2) The court, upon application to it under this section, may, unless the court finds on
2252 the record that the ability of the service member to comply with the terms of the contract is not
2253 materially affected by reason of the service member's state military service:

2254 (a) order repayment of any prior installments or deposits as a condition of terminating
2255 the contract and resuming possession of the property;

2256 (b) order a stay of the proceedings on [~~its~~] the court's own motion, or on motion by the
2257 service member or another [~~person~~] individual on the service member's behalf; or

2258 (c) make any other disposition of the case [it] the court considers to be equitable to
2259 conserve the interests of all parties.

2260 (3) Any person who knowingly repossesses property which is the subject of this section
2261 other than as provided in Subsection (1) is guilty of a class B misdemeanor.

2262 Section 116. Section **39A-6-115**, which is renumbered from Section 39-7-115 is
2263 renumbered and amended to read:

2264 ~~[39-7-115].~~ **39A-6-115. Mortgage foreclosures.**

2265 (1) The creditor of a service member who ~~[, prior to entry into military service, has]~~
2266 entered into a mortgage contract with the service member or the service member's dependent
2267 for the purchase of real or personal property prior to the service member's entry into state
2268 military service may not foreclose on the mortgage or repossess the property for nonpayment or
2269 any breach occurring during the service member's state military service without an order from a
2270 court of competent jurisdiction.

2271 (2) The court, upon an application ~~[to it]~~ under this section, may, unless the court finds
2272 on the record that the ability of the service member to comply with the terms of the mortgage is
2273 not materially affected by reason of the service member's state military service:

2274 (a) order repayment of any prior installments or deposits as a condition of terminating
2275 the contract and resuming possession of the property;

2276 (b) order a stay of the proceedings on ~~[its]~~ the court's own motion, or on motion by the
2277 service member or another ~~[person]~~ individual on the service member's behalf; or

2278 (c) make any other disposition of the case as ~~[it]~~ the court considers to be equitable to
2279 conserve the interests of all parties.

2280 (3) In order to come within the provisions of this section, the service member or
2281 dependent shall establish the following:

2282 (a) that relief is sought on an obligation secured by a mortgage, trust deed, or other
2283 security in the nature of a mortgage on either real or personal property;

2284 (b) that the obligation originated prior to the service member's entry into state military
2285 service;

2286 (c) that the property was owned by the service member or the service member's
2287 dependent prior to the commencement of state military service; and

2288 (d) that the property is still owned by the service member or the service member's

2289 dependent at the time relief is sought.

2290 (4) Any person who knowingly forecloses on property which is the subject of this
2291 section other than as provided in Subsection (1) is guilty of a class B misdemeanor.

2292 Section 117. Section **39A-6-116**, which is renumbered from Section 39-7-116 is
2293 renumbered and amended to read:

2294 ~~[39-7-116]~~. **39A-6-116. Application for relief.**

2295 (1) A ~~[person]~~ service member may, at any time during ~~[his]~~ the service member's
2296 period of state military service or within 60 days after discharge or termination, apply to a court
2297 for relief in respect of any obligation or liability incurred by the ~~[person]~~ service member prior
2298 to ~~[his]~~ the service member's period of military service.

2299 (2) The court, after appropriate notice and hearing, unless in ~~[its]~~ the court's opinion
2300 the ability of the applicant to comply with the terms of the obligation or liability has not been
2301 materially affected by reason of ~~[his]~~ the service member's state military service, may grant the
2302 following relief:

2303 (a) In the case of an obligation payable under its terms in installments under a contract
2304 for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a
2305 mortgage upon real estate, a stay of the enforcement of the obligation during the applicant's
2306 period of state military service and, from the date of termination of the period of state military
2307 service or from the date of application if made after termination of state military service, for a
2308 period equal to the period of the remaining life of the installment contract or other instrument
2309 plus a period of time equal to the period of state military service of the applicant, or any part of
2310 the combined period, subject to payment of the balance of principal and accumulated interest
2311 due and unpaid at the date of termination of the period of state military service or from the date
2312 of application, in equal installments during the combined period at the rate of interest on the
2313 unpaid balance as is prescribed in the contract, or other instrument evidencing the obligation,
2314 for installments paid when due, and subject to any other terms as the court may consider just.

2315 (b) In the case of any other obligation or liability, a stay of the enforcement during the
2316 applicant's period of state military service and, from the date of termination of the period of
2317 state military service or from the date of application if made after termination of the period of
2318 state military service, for a period of time equal to the period of state military service of the
2319 applicant or any part of that period, subject to payment of the balance of principal and

2320 accumulated interest due and unpaid at the date of termination of the period of state military
2321 service or the date of application, in equal periodic installments during the extended period at
2322 the rate of interest prescribed for the obligation or liability, if paid when due, and subject to
2323 other terms the court considers to be reasonable and just.

2324 (3) When any court has granted a stay as provided in this section, a fine or penalty may
2325 not be accrued for failure to comply with the terms or conditions of the obligation or liability
2326 for which the stay was granted during the period the terms and conditions of the stay are
2327 complied with.

2328 Section 118. Section **39A-6-117**, which is renumbered from Section 39-7-117 is
2329 renumbered and amended to read:

2330 ~~[39-7-117]~~. **39A-6-117**. **Storage liens.**

2331 (1) A person may not exercise any right to foreclose or enforce any lien for storage of
2332 household goods, furniture, or personal effects of a service member in state military service
2333 during the service member's period of state military service and for 60 days after termination or
2334 discharge, except upon an order previously granted by a court upon application and a return to
2335 the court made and approved by the court. In the proceeding the court may, after hearing the
2336 matter, on its own motion, and shall, on application [~~to it~~] by the service member in state
2337 military service or another [~~person~~] individual on the service member's behalf, unless in the
2338 opinion of the court the ability of the service member to pay the storage charges due is not
2339 materially affected by reason of the service member's state military service:

2340 (a) stay the proceedings as provided in this chapter; or

2341 (b) make any other disposition the court considers to be equitable to conserve the
2342 interest of all the parties.

2343 (2) The enactment of the provisions of this section may not be construed in any way as
2344 affecting or limiting the scope of Section [~~39-7-115~~] 39A-6-115.

2345 (3) Any person who knowingly takes any action contrary to the provisions of this
2346 section, or attempts to do so, is guilty of a class B misdemeanor.

2347 Section 119. Section **39A-7-101**, which is renumbered from Section 39-9-101 is
2348 renumbered and amended to read:

2349 **CHAPTER 7. MORALE, WELFARE, AND RECREATION PROGRAM**

2350 ~~[39-9-101]~~. **39A-7-101**. **State Morale, Welfare, and Recreation Program --**

2351 **Program established.**2352 [~~(1)~~ This chapter is known as the "State Morale, Welfare, and Recreation Program."]2353 [~~(2)~~] The adjutant general is authorized to establish a Utah National Guard Morale,
2354 Welfare, and Recreation Program to serve members of the military, eligible dependents, and
2355 others as set out in Section [~~39-9-103~~] [39A-7-103](#).2356 Section 120. Section **39A-7-102**, which is renumbered from Section 39-9-102 is
2357 renumbered and amended to read:2358 [~~39-9-102~~]. **39A-7-102. Definitions.**

2359 For purposes of this chapter:

2360 (1) "Dependent" means the spouse or children of [~~a person~~] an individual eligible to
2361 use the program and facilities in accordance with Section [~~39-9-103~~] [39A-7-103](#).

2362 (2) "MWR" means morale, welfare, and recreation.

2363 (3) "MWR facility" means any Utah National Guard facility located on a Department
2364 of Defense or Utah National Guard installation or on property controlled by the Department of
2365 Defense or the Utah National Guard, the purpose of which is to enhance MWR for authorized
2366 patrons.2367 Section 121. Section **39A-7-103**, which is renumbered from Section 39-9-103 is
2368 renumbered and amended to read:2369 [~~39-9-103~~]. **39A-7-103. Eligibility and facilities.**

2370 (1) Use of the MWR program and facilities is limited to:

2371 (a) active and reserve component members of the Utah National Guard and armed
2372 forces of the United States;2373 (b) [~~persons~~] individuals retired from the armed forces of the United States;

2374 (c) civilian employees of the Utah National Guard;

2375 (d) dependents of authorized [~~persons~~] individuals in Subsections (1)(a) through (c);2376 (e) contracted employees of the Utah National Guard while working on-site or
2377 conducting business on National Guard property; [~~and~~]2378 (f) sponsored [~~persons~~] individuals when personally accompanied by a sponsor who is
2379 an eligible patron as described in this section; and2380 (g) other personnel or organizations at the discretion of the adjutant general.

2381 (2) MWR facilities include any of the following, even if the shop, building, or parcel is

2382 only partially used for MWR purposes:

2383 (a) post or base exchange;

2384 (b) canteen or service club;

2385 (c) barber shop;

2386 (d) fitness center;

2387 (e) snack bar;

2388 (f) restaurant;

2389 (g) billeting operation;

2390 (h) laundry facility;

2391 (i) range;

2392 (j) swimming pool; or

2393 (k) any other shop, building, or parcel that meets the definition of MWR facility in

2394 Section ~~[39-9-102]~~ [39A-7-102](#).

2395 (3) The adjutant general shall, by regulation, determine specific use priorities when
2396 MWR facilities cannot accommodate all authorized patrons.

2397 Section 122. Section **39A-7-104**, which is renumbered from Section 39-9-104 is
2398 renumbered and amended to read:

2399 ~~[39-9-104]~~. **39A-7-104. Administration of MWR Program.**

2400 (1) The adjutant general may authorize the program to:

2401 (a) contract for goods and services;

2402 (b) hire employees; and

2403 (c) receive funds from patrons in exchange for goods or services provided within the
2404 program.

2405 (2) The adjutant general is authorized to establish MWR facilities throughout the state
2406 that, in the adjutant general's judgment, are necessary for military purposes.

2407 (3) The adjutant general shall promulgate regulations to govern the operation of the
2408 program.

2409 (4) The adjutant general may appoint a director for the program.

2410 (5) The adjutant general shall establish a system of bookkeeping, accounting, and
2411 auditing procedures for the proper handling of funds derived from the program's operations.

2412 (6) The program may use State Armory Board-controlled properties, provided:

- 2413 (a) the use incurs no more than nominal cost to the state; or
- 2414 (b) any costs to the state above nominal associated with the use are reimbursed to the
- 2415 state by the program.

2416 Section 123. Section **39A-7-105**, which is renumbered from Section 39-9-105 is

2417 renumbered and amended to read:

2418 ~~[39-9-105].~~ **39A-7-105. National Guard MWR Fund -- Proceeds.**

2419 (1) There is created an expendable special revenue fund known as the National Guard

2420 MWR Fund.

2421 (2) The fund shall consist of:

- 2422 (a) all proceeds collected under this chapter;
- 2423 (b) donations made to the National Guard MWR Program; and
- 2424 (c) any appropriations to the program by the Legislature.

2425 (3) Money from the fund shall be used for the enhancement of morale, welfare, and

2426 recreation, and the administration of the program under this chapter, including paying the costs

2427 of:

- 2428 (a) salaries of program employees;
- 2429 (b) public liability insurance, when needed;
- 2430 (c) the adjutant general's Outreach Program;
- 2431 (d) the State Partnership Program; and
- 2432 (e) any other expenses considered necessary in furtherance of the program by the
- 2433 adjutant general or the adjutant general's designee.

2434 Section 124. Section **39A-8-101**, which is renumbered from Section 39-10-101 is

2435 renumbered and amended to read:

2436 **CHAPTER 8. WEST TRAVERSE SENTINEL LANDSCAPE ACT**

2437 ~~[39-10-101].~~ **39A-8-101. West Traverse Sentinel Landscape Act --**

2438 **Purpose.**

2439 ~~[(1) This chapter is known as "West Traverse Sentinel Landscape Act."]~~

2440 ~~[(2)]~~ The purpose of this act is to:

2441 ~~[(a)]~~ (1) identify lands adjacent to Camp Williams that are important to the nation's

2442 defense mission;

2443 ~~[(b)]~~ (2) preserve and enhance the relationship between adjacent landowners and Camp

2444 Williams; and

2445 ~~[(c)]~~ (3) create incentives to encourage adjacent landowners to adopt land management
2446 practices consistent with Camp Williams's military mission.

2447 Section 125. Section **39A-8-102**, which is renumbered from Section 39-10-102 is
2448 renumbered and amended to read:

2449 ~~[39-10-102]~~. **39A-8-102. Area designation -- West Traverse Sentinel**
2450 **Landscape.**

2451 (1) The compatible use buffer area surrounding Camp Williams shall be known as the
2452 West Traverse Sentinel Landscape.

2453 (2) Lands designated by the committee established in Section ~~[39-10-103]~~ 39A-8-103
2454 and lands acquired or encumbered through the Camp Williams Army Compatible Use Buffer
2455 (ACUB) Program shall be added to the buffer area.

2456 Section 126. Section **39A-8-103**, which is renumbered from Section 39-10-103 is
2457 renumbered and amended to read:

2458 ~~[39-10-103]~~. **39A-8-103. West Traverse Sentinel Landscape Coordinating**
2459 **Committee.**

2460 (1) There is created the West Traverse Sentinel Landscape Coordinating Committee.

2461 (2) The committee shall be composed of the following members:

2462 (a) the adjutant general of the Utah National Guard or another senior officer appointed
2463 by the adjutant general;

2464 (b) the executive director of the Department of Veterans and Military Affairs or the
2465 director's designee;

2466 (c) a landowner, selected by the chair, who owns property within the sentinel landscape
2467 area;

2468 (d) a representative from a land conservation organization in Utah recognized as
2469 accredited under the standards and practices of the Land Trust Accreditation Commission;

2470 (e) a representative from each municipality adjacent to Camp Williams, at the
2471 discretion of the municipality;

2472 (f) one representative each from Salt Lake, Utah, and Tooele counties, at the discretion
2473 of the county governing body;

2474 (g) a representative from a nongovernmental land management organization; and

2475 (h) one member selected from a state agency that participates in land management
2476 activities.

2477 (3) Committee members shall be selected and serve in accordance with this Subsection
2478 (3).

2479 (a) The committee member representing Subsection (2)(c) shall be selected by the chair
2480 from a list of nominees presented by local officials.

2481 (b) The committee members representing Subsections (2)(d) and (g) shall be invited to
2482 participate by the chair with the approval of a majority of the committee.

2483 (c) Each incorporated municipality bordering Camp Williams shall, at its discretion no
2484 later than July 1 of each year, provide the chair with the name of the individual who will
2485 represent the municipality on the committee, as provided in Subsection (2)(e). If the
2486 municipality declines to be represented on the committee, it shall send a letter to the chair on
2487 the municipality's letterhead stating that no individual will be appointed.

2488 (d) If a county, as provided in Subsection (2)(f), declines to be represented on the
2489 committee, it shall send a letter to the chair on the county's letterhead not later than July 1 of
2490 each year stating that no individual will be appointed.

2491 (e) The committee chair shall request the appointment of members representing
2492 Subsection (2)(h) from:

2493 (i) the governor if the request is for a member from a state agency; or

2494 (ii) the mayor or governing body of a local government entity if the request is for a
2495 member from a local government agency.

2496 (4) The adjutant general or his appointee shall serve as chair of the committee.

2497 (5) The committee shall meet at the call of the chair, but not less than twice each
2498 calendar year.

2499 (6) A member may not receive compensation or benefits for the member's service but
2500 may receive per diem and travel expenses in accordance with:

2501 (a) Section [63A-3-106](#);

2502 (b) Section [63A-3-107](#); and

2503 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
2504 [63A-3-107](#).

2505 (7) The Utah National Guard shall provide staff support for the committee.

2506 Section 127. Section **39A-8-104**, which is renumbered from Section 39-10-104 is
2507 renumbered and amended to read:

2508 ~~[39-10-104]~~. **39A-8-104. Committee responsibilities.**

2509 (1) The committee shall:

2510 (a) identify lands to be included in the designated sentinel landscape;

2511 (b) develop strategies and recommendations to encourage landowners within the
2512 sentinel landscape to voluntarily participate in and begin or continue land uses compatible with
2513 Camp Williams's military mission; and

2514 (c) publish any policies and procedures as administrative rules in accordance with Title
2515 63G, Chapter 3, Utah Administrative Rulemaking Act.

2516 (2) In designating sentinel lands, the coordinating committee shall include all working
2517 or natural lands that the coordinating committee believes contribute to the long-term
2518 sustainability of the military missions conducted at Camp Williams.

2519 (3) The committee shall determine the appropriate level of state resources required to
2520 adequately protect Camp Williams's military mission and may apply for grants from the LeRay
2521 McAllister Critical Lands Conservation Program to aid in securing those resources.

2522 (4) In determining lands to designate, the coordinating committee shall seek input
2523 from:

2524 (a) the director of the Department of Defense Readiness and Environmental Protection
2525 Integration Program; and

2526 (b) the director of the National Guard Bureau Army Compatible Use Buffer Program,
2527 as authorized under 10 U.S.C. Sec. 2684(a).

2528 (5) The committee shall provide a written report of its activities if state funds are
2529 expended during the previous calendar year no later than July 31 annually to:

2530 (a) the governor;

2531 (b) the Government Operations Interim Committee; and

2532 (c) the Executive Appropriations Committee.

2533 Section 128. Section **39A-8-105**, which is renumbered from Section 39-10-105 is
2534 renumbered and amended to read:

2535 ~~[39-10-105]~~. **39A-8-105. West Traverse Sentinel Landscape Fund.**

2536 (1) As used in this section:

- 2537 (a) "Committee" means the West Traverse Sentinel Landscape Coordinating
2538 Committee created in Section [~~39-10-103~~] [39A-8-103](#).
- 2539 (b) "Fund" means the West Traverse Sentinel Landscape Fund.
- 2540 (2) There is created a restricted account within the General Fund known as the West
2541 Traverse Sentinel Landscape Fund.
- 2542 (3) The fund shall consist of:
- 2543 (a) appropriations from the Legislature; and
- 2544 (b) grants or donations from other public or private sources.
- 2545 (4) The fund shall be administered by the Utah National Guard and the committee.
- 2546 (5) The purpose of the fund shall be to provide:
- 2547 (a) matching funds for established federal funding programs concerning sentinel
2548 landscapes;
- 2549 (b) matching funds for local and private funding programs that assist with sentinel
2550 landscape designations;
- 2551 (c) incentives for landowners who voluntarily participate in land management practices
2552 that are consistent with Camp Williams's military missions;
- 2553 (d) sentinel landscape monitoring, community outreach, and education;
- 2554 (e) costs associated with due diligence and administration of purchasing land and
2555 easements; and
- 2556 (f) administrative costs as approved by the Utah National Guard and the committee.
- 2557 (6) The committee may make an appropriation request through the Utah National
2558 Guard to the Legislature for necessary funds to carry out the committee's purpose.
- 2559 (7) Upon appropriation, funds may only be used for landscapes that qualify under:
- 2560 (a) the Army Compatible Use Buffer Program guidelines or similar regulations as a
2561 federal program whose purpose is to secure landscapes that serve to buffer military
2562 installations;
- 2563 (b) Internal Revenue Code guidelines in 26 U.S.C. Sec. 170(h); or
- 2564 (c) local municipal or county guidelines established through the committee and
2565 consistent with Camp Williams's military mission.
- 2566 Section 129. Section **53-2a-603** is amended to read:
- 2567 **53-2a-603. State Disaster Recovery Restricted Account.**

2568 (1) (a) There is created a restricted account in the General Fund known as the "State
2569 Disaster Recovery Restricted Account."

2570 (b) The disaster recovery account consists of:

2571 (i) money deposited into the disaster recovery account in accordance with Section
2572 63J-1-314;

2573 (ii) money appropriated to the disaster recovery account by the Legislature; and

2574 (iii) any other public or private money received by the division that is:

2575 (A) given to the division for purposes consistent with this section; and

2576 (B) deposited into the disaster recovery account at the request of:

2577 (I) the division; or

2578 (II) the person or entity giving the money.

2579 (c) The Division of Finance shall deposit interest or other earnings derived from
2580 investment of account money into the General Fund.

2581 (2) Subject to being appropriated by the Legislature, money in the disaster recovery
2582 account may only be expended or committed to be expended as follows:

2583 (a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or
2584 commit to expend an amount that does not exceed \$500,000, in accordance with Section
2585 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared
2586 disaster;

2587 (ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit
2588 to expend an amount that exceeds \$500,000, but does not exceed \$3,000,000, in accordance
2589 with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to
2590 a declared disaster if the division:

2591 (A) before making the expenditure or commitment to expend, obtains approval for the
2592 expenditure or commitment to expend from the governor;

2593 (B) subject to Subsection (5), provides written notice of the expenditure or
2594 commitment to expend to the speaker of the House of Representatives, the president of the
2595 Senate, the Division of Finance, the Executive Offices and Criminal Justice Appropriations
2596 Subcommittee, the Legislative Management Committee, and the Office of the Legislative
2597 Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend;
2598 and

2599 (C) makes the report required by Subsection [53-2a-606](#)(2);
2600 (iii) subject to Section [53-2a-606](#), in any fiscal year the division may expend or commit
2601 to expend an amount that exceeds \$3,000,000, but does not exceed \$5,000,000, in accordance
2602 with Section [53-2a-604](#), to fund costs to the state of emergency disaster services in response to
2603 a declared disaster if, before making the expenditure or commitment to expend, the division:
2604 (A) obtains approval for the expenditure or commitment to expend from the governor;
2605 and
2606 (B) submits the expenditure or commitment to expend to the Executive Appropriations
2607 Committee in accordance with Subsection [53-2a-606](#)(3); and
2608 (iv) in any fiscal year the division may expend or commit to expend an amount that
2609 does not exceed \$150,000 to fund expenses incurred by the National Guard if:
2610 (A) in accordance with Section [~~39-1-5~~] [39A-3-103](#), the governor orders into active
2611 service the National Guard in response to a declared disaster; and
2612 (B) the money is not used for expenses that qualify for payment as emergency disaster
2613 services;
2614 (b) money not described in Subsections (2)(a)(i), (ii), and (iii) may be expended or
2615 committed to be expended to fund costs to the state directly related to a declared disaster that
2616 are not costs related to:
2617 (i) emergency disaster services;
2618 (ii) emergency preparedness; or
2619 (iii) notwithstanding whether a county participates in the Wildland Fire Suppression
2620 Fund created in Section [65A-8-204](#), any fire suppression or presuppression costs that may be
2621 paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland
2622 Fire Suppression Fund;
2623 (c) to fund the Local Government Emergency Response Loan Fund created in Section
2624 [53-2a-607](#);
2625 (d) the division may provide advanced funding from the disaster recovery account to
2626 recognized agents of the state when:
2627 (i) Utah has agreed, through the division, to enact the Emergency Management
2628 Assistance Compact with another member state that has requested assistance during a declared
2629 disaster;

- 2630 (ii) Utah agrees to provide resources to the requesting member state;
- 2631 (iii) the agent of the state who represents the requested resource has no other funding
2632 source available at the time of the Emergency Management Assistance Compact request; and
- 2633 (iv) the disaster recovery account has a balance of funds available to be utilized while
2634 maintaining a minimum balance of \$10,000,000;
- 2635 (e) the division may expend up to \$3,200,000 during fiscal year 2019 to fund
2636 operational costs incurred by the division during fiscal year 2019; and
- 2637 (f) to fund up to \$500,000 for the governor's emergency appropriations described in
2638 Subsection [63J-1-217](#)(4).
- 2639 (3) All funding provided in advance to an agent of the state and subsequently
2640 reimbursed shall be credited to the account.
- 2641 (4) The state treasurer shall invest money in the disaster recovery account according to
2642 Title 51, Chapter 7, State Money Management Act.
- 2643 (5) (a) Except as provided in Subsections (1) and (2), the money in the disaster
2644 recovery account may not be diverted, appropriated, expended, or committed to be expended
2645 for a purpose that is not listed in this section.
- 2646 (b) Notwithstanding Section [63J-1-410](#), the Legislature may not appropriate money
2647 from the disaster recovery account to eliminate or otherwise reduce an operating deficit if the
2648 money appropriated from the disaster recovery account is expended or committed to be
2649 expended for a purpose other than one listed in this section.
- 2650 (c) The Legislature may not amend the purposes for which money in the disaster
2651 recovery account may be expended or committed to be expended except by the affirmative vote
2652 of two-thirds of all the members elected to each house.
- 2653 (6) The division:
- 2654 (a) shall provide the notice required by Subsection (2)(a)(ii) using the best available
2655 method under the circumstances as determined by the division; and
- 2656 (b) may provide the notice required by Subsection (2)(a)(ii) in electronic format.
2657 Section 130. Section **59-12-104** is amended to read:
- 2658 **59-12-104. Exemptions.**
- 2659 Exemptions from the taxes imposed by this chapter are as follows:
- 2660 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax

2661 under Chapter 13, Motor and Special Fuel Tax Act;

2662 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political

2663 subdivisions; however, this exemption does not apply to sales of:

2664 (a) construction materials except:

2665 (i) construction materials purchased by or on behalf of institutions of the public

2666 education system as defined in Utah Constitution, Article X, Section 2, provided the

2667 construction materials are clearly identified and segregated and installed or converted to real

2668 property which is owned by institutions of the public education system; and

2669 (ii) construction materials purchased by the state, its institutions, or its political

2670 subdivisions which are installed or converted to real property by employees of the state, its

2671 institutions, or its political subdivisions; or

2672 (b) tangible personal property in connection with the construction, operation,

2673 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities

2674 providing additional project capacity, as defined in Section 11-13-103;

2675 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

2676 (i) the proceeds of each sale do not exceed \$1; and

2677 (ii) the seller or operator of the vending machine reports an amount equal to 150% of

2678 the cost of the item described in Subsection (3)(b) as goods consumed; and

2679 (b) Subsection (3)(a) applies to:

2680 (i) food and food ingredients; or

2681 (ii) prepared food;

2682 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

2683 (i) alcoholic beverages;

2684 (ii) food and food ingredients; or

2685 (iii) prepared food;

2686 (b) sales of tangible personal property or a product transferred electronically:

2687 (i) to a passenger;

2688 (ii) by a commercial airline carrier; and

2689 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

2690 (c) services related to Subsection (4)(a) or (b);

2691 (5) sales of parts and equipment for installation in an aircraft operated by a common

2692 carrier in interstate or foreign commerce;

2693 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
2694 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
2695 exhibitor, distributor, or commercial television or radio broadcaster;

2696 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of
2697 cleaning or washing of tangible personal property if the cleaning or washing of the tangible
2698 personal property is not assisted cleaning or washing of tangible personal property;

2699 (b) if a seller that sells at the same business location assisted cleaning or washing of
2700 tangible personal property and cleaning or washing of tangible personal property that is not
2701 assisted cleaning or washing of tangible personal property, the exemption described in
2702 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
2703 or washing of the tangible personal property; and

2704 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
2705 Utah Administrative Rulemaking Act, the commission may make rules:

2706 (i) governing the circumstances under which sales are at the same business location;
2707 and

2708 (ii) establishing the procedures and requirements for a seller to separately account for
2709 sales of assisted cleaning or washing of tangible personal property;

2710 (8) sales made to or by religious or charitable institutions in the conduct of their regular
2711 religious or charitable functions and activities, if the requirements of Section [59-12-104.1](#) are
2712 fulfilled;

2713 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
2714 this state if the vehicle is:

2715 (a) not registered in this state; and

2716 (b) (i) not used in this state; or

2717 (ii) used in this state:

2718 (A) if the vehicle is not used to conduct business, for a time period that does not
2719 exceed the longer of:

2720 (I) 30 days in any calendar year; or

2721 (II) the time period necessary to transport the vehicle to the borders of this state; or

2722 (B) if the vehicle is used to conduct business, for the time period necessary to transport

2723 the vehicle to the borders of this state;

2724 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

2725 (i) the item is intended for human use; and

2726 (ii) (A) a prescription was issued for the item; or

2727 (B) the item was purchased by a hospital or other medical facility; and

2728 (b) (i) Subsection (10)(a) applies to:

2729 (A) a drug;

2730 (B) a syringe; or

2731 (C) a stoma supply; and

2732 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2733 commission may by rule define the terms:

2734 (A) "syringe"; or

2735 (B) "stoma supply";

2736 (11) purchases or leases exempt under Section [19-12-201](#);

2737 (12) (a) sales of an item described in Subsection (12)(c) served by:

2738 (i) the following if the item described in Subsection (12)(c) is not available to the

2739 general public:

2740 (A) a church; or

2741 (B) a charitable institution; or

2742 (ii) an institution of higher education if:

2743 (A) the item described in Subsection (12)(c) is not available to the general public; or

2744 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan

2745 offered by the institution of higher education; or

2746 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

2747 (i) a medical facility; or

2748 (ii) a nursing facility; and

2749 (c) Subsections (12)(a) and (b) apply to:

2750 (i) food and food ingredients;

2751 (ii) prepared food; or

2752 (iii) alcoholic beverages;

2753 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property

2754 or a product transferred electronically by a person:

2755 (i) regardless of the number of transactions involving the sale of that tangible personal
2756 property or product transferred electronically by that person; and

2757 (ii) not regularly engaged in the business of selling that type of tangible personal
2758 property or product transferred electronically;

2759 (b) this Subsection (13) does not apply if:

2760 (i) the sale is one of a series of sales of a character to indicate that the person is
2761 regularly engaged in the business of selling that type of tangible personal property or product
2762 transferred electronically;

2763 (ii) the person holds that person out as regularly engaged in the business of selling that
2764 type of tangible personal property or product transferred electronically;

2765 (iii) the person sells an item of tangible personal property or product transferred
2766 electronically that the person purchased as a sale that is exempt under Subsection (25); or

2767 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
2768 this state in which case the tax is based upon:

2769 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
2770 sold; or

2771 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2772 value of the vehicle or vessel being sold at the time of the sale as determined by the
2773 commission; and

2774 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2775 commission shall make rules establishing the circumstances under which:

2776 (i) a person is regularly engaged in the business of selling a type of tangible personal
2777 property or product transferred electronically;

2778 (ii) a sale of tangible personal property or a product transferred electronically is one of
2779 a series of sales of a character to indicate that a person is regularly engaged in the business of
2780 selling that type of tangible personal property or product transferred electronically; or

2781 (iii) a person holds that person out as regularly engaged in the business of selling a type
2782 of tangible personal property or product transferred electronically;

2783 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2784 operating repair or replacement parts, or materials, except for office equipment or office

2785 supplies, by:

2786 (a) a manufacturing facility that:

2787 (i) is located in the state; and

2788 (ii) uses or consumes the machinery, equipment, normal operating repair or

2789 replacement parts, or materials:

2790 (A) in the manufacturing process to manufacture an item sold as tangible personal
2791 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
2792 Utah Administrative Rulemaking Act; or

2793 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
2794 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2795 Administrative Rulemaking Act;

2796 (b) an establishment, as the commission defines that term in accordance with Title
2797 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

2798 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
2799 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
2800 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
2801 2002 North American Industry Classification System of the federal Executive Office of the
2802 President, Office of Management and Budget;

2803 (ii) is located in the state; and

2804 (iii) uses or consumes the machinery, equipment, normal operating repair or
2805 replacement parts, or materials in:

2806 (A) the production process to produce an item sold as tangible personal property, as the
2807 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2808 Administrative Rulemaking Act;

2809 (B) research and development, as the commission may define that phrase in accordance
2810 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2811 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
2812 produced from mining;

2813 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
2814 mining; or

2815 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

2816 (c) an establishment, as the commission defines that term in accordance with Title 63G,
2817 Chapter 3, Utah Administrative Rulemaking Act, that:

2818 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
2819 American Industry Classification System of the federal Executive Office of the President,
2820 Office of Management and Budget;

2821 (ii) is located in the state; and

2822 (iii) uses or consumes the machinery, equipment, normal operating repair or
2823 replacement parts, or materials in the operation of the web search portal;

2824 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

2825 (i) tooling;

2826 (ii) special tooling;

2827 (iii) support equipment;

2828 (iv) special test equipment; or

2829 (v) parts used in the repairs or renovations of tooling or equipment described in
2830 Subsections (15)(a)(i) through (iv); and

2831 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

2832 (i) the tooling, equipment, or parts are used or consumed exclusively in the
2833 performance of any aerospace or electronics industry contract with the United States
2834 government or any subcontract under that contract; and

2835 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2836 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2837 by:

2838 (A) a government identification tag placed on the tooling, equipment, or parts; or

2839 (B) listing on a government-approved property record if placing a government
2840 identification tag on the tooling, equipment, or parts is impractical;

2841 (16) sales of newspapers or newspaper subscriptions;

2842 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
2843 product transferred electronically traded in as full or part payment of the purchase price, except
2844 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
2845 trade-ins are limited to other vehicles only, and the tax is based upon:

2846 (i) the bill of sale or other written evidence of value of the vehicle being sold and the

2847 vehicle being traded in; or

2848 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
2849 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
2850 commission; and

2851 (b) Subsection (17)(a) does not apply to the following items of tangible personal
2852 property or products transferred electronically traded in as full or part payment of the purchase
2853 price:

2854 (i) money;

2855 (ii) electricity;

2856 (iii) water;

2857 (iv) gas; or

2858 (v) steam;

2859 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
2860 or a product transferred electronically used or consumed primarily and directly in farming
2861 operations, regardless of whether the tangible personal property or product transferred
2862 electronically:

2863 (A) becomes part of real estate; or

2864 (B) is installed by a farmer, contractor, or subcontractor; or

2865 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
2866 product transferred electronically if the tangible personal property or product transferred
2867 electronically is exempt under Subsection (18)(a)(i); and

2868 (b) amounts paid or charged for the following are subject to the taxes imposed by this
2869 chapter:

2870 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
2871 supplies if used in a manner that is incidental to farming; and

2872 (B) tangible personal property that is considered to be used in a manner that is
2873 incidental to farming includes:

2874 (I) hand tools; or

2875 (II) maintenance and janitorial equipment and supplies;

2876 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
2877 transferred electronically if the tangible personal property or product transferred electronically

2878 is used in an activity other than farming; and
2879 (B) tangible personal property or a product transferred electronically that is considered
2880 to be used in an activity other than farming includes:
2881 (I) office equipment and supplies; or
2882 (II) equipment and supplies used in:
2883 (Aa) the sale or distribution of farm products;
2884 (Bb) research; or
2885 (Cc) transportation; or
2886 (iii) a vehicle required to be registered by the laws of this state during the period
2887 ending two years after the date of the vehicle's purchase;
2888 (19) sales of hay;
2889 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
2890 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
2891 garden, farm, or other agricultural produce is sold by:
2892 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
2893 agricultural produce;
2894 (b) an employee of the producer described in Subsection (20)(a); or
2895 (c) a member of the immediate family of the producer described in Subsection (20)(a);
2896 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
2897 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;;
2898 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
2899 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
2900 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
2901 manufacturer, processor, wholesaler, or retailer;
2902 (23) a product stored in the state for resale;
2903 (24) (a) purchases of a product if:
2904 (i) the product is:
2905 (A) purchased outside of this state;
2906 (B) brought into this state:
2907 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
2908 (II) by a nonresident person who is not living or working in this state at the time of the

2909 purchase;

2910 (C) used for the personal use or enjoyment of the nonresident person described in

2911 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

2912 (D) not used in conducting business in this state; and

2913 (ii) for:

2914 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

2915 the product for a purpose for which the product is designed occurs outside of this state;

2916 (B) a boat, the boat is registered outside of this state; or

2917 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

2918 outside of this state;

2919 (b) the exemption provided for in Subsection (24)(a) does not apply to:

2920 (i) a lease or rental of a product; or

2921 (ii) a sale of a vehicle exempt under Subsection (33); and

2922 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

2923 purposes of Subsection (24)(a), the commission may by rule define what constitutes the

2924 following:

2925 (i) conducting business in this state if that phrase has the same meaning in this

2926 Subsection (24) as in Subsection (63);

2927 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)

2928 as in Subsection (63); or

2929 (iii) a purpose for which a product is designed if that phrase has the same meaning in

2930 this Subsection (24) as in Subsection (63);

2931 (25) a product purchased for resale in the regular course of business, either in its

2932 original form or as an ingredient or component part of a manufactured or compounded product;

2933 (26) a product upon which a sales or use tax was paid to some other state, or one of its

2934 subdivisions, except that the state shall be paid any difference between the tax paid and the tax

2935 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if

2936 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax

2937 Act;

2938 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a

2939 person for use in compounding a service taxable under the subsections;

2940 (28) purchases made in accordance with the special supplemental nutrition program for
2941 women, infants, and children established in 42 U.S.C. Sec. 1786;

2942 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
2943 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
2944 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
2945 the President, Office of Management and Budget;

2946 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
2947 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

2948 (a) not registered in this state; and

2949 (b) (i) not used in this state; or

2950 (ii) used in this state:

2951 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
2952 time period that does not exceed the longer of:

2953 (I) 30 days in any calendar year; or

2954 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
2955 the borders of this state; or

2956 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
2957 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
2958 state;

2959 (31) sales of aircraft manufactured in Utah;

2960 (32) amounts paid for the purchase of telecommunications service for purposes of
2961 providing telecommunications service;

2962 (33) sales, leases, or uses of the following:

2963 (a) a vehicle by an authorized carrier; or

2964 (b) tangible personal property that is installed on a vehicle:

2965 (i) sold or leased to or used by an authorized carrier; and

2966 (ii) before the vehicle is placed in service for the first time;

2967 (34) (a) 45% of the sales price of any new manufactured home; and

2968 (b) 100% of the sales price of any used manufactured home;

2969 (35) sales relating to schools and fundraising sales;

2970 (36) sales or rentals of durable medical equipment if:

- 2971 (a) a person presents a prescription for the durable medical equipment; and
2972 (b) the durable medical equipment is used for home use only;
- 2973 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
2974 Section 72-11-102; and
2975 (b) the commission shall by rule determine the method for calculating sales exempt
2976 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 2977 (38) sales to a ski resort of:
2978 (a) snowmaking equipment;
2979 (b) ski slope grooming equipment;
2980 (c) passenger ropeways as defined in Section 72-11-102; or
2981 (d) parts used in the repairs or renovations of equipment or passenger ropeways
2982 described in Subsections (38)(a) through (c);
- 2983 (39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal,
2984 fuel oil, or other fuels for industrial use;
- 2985 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
2986 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
2987 59-12-102;
2988 (b) if a seller that sells or rents at the same business location the right to use or operate
2989 for amusement, entertainment, or recreation one or more unassisted amusement devices and
2990 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
2991 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
2992 amusement, entertainment, or recreation for the assisted amusement devices; and
2993 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
2994 Utah Administrative Rulemaking Act, the commission may make rules:
2995 (i) governing the circumstances under which sales are at the same business location;
2996 and
2997 (ii) establishing the procedures and requirements for a seller to separately account for
2998 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
2999 assisted amusement devices;
- 3000 (41) (a) sales of photocopies by:
3001 (i) a governmental entity; or

- 3002 (ii) an entity within the state system of public education, including:
- 3003 (A) a school; or
- 3004 (B) the State Board of Education; or
- 3005 (b) sales of publications by a governmental entity;
- 3006 (42) amounts paid for admission to an athletic event at an institution of higher
- 3007 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 3008 20 U.S.C. Sec. 1681 et seq.;
- 3009 (43) (a) sales made to or by:
- 3010 (i) an area agency on aging; or
- 3011 (ii) a senior citizen center owned by a county, city, or town; or
- 3012 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 3013 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 3014 materials regardless of whether the semiconductor fabricating, processing, research, or
- 3015 development materials:
- 3016 (a) actually come into contact with a semiconductor; or
- 3017 (b) ultimately become incorporated into real property;
- 3018 (45) an amount paid by or charged to a purchaser for accommodations and services
- 3019 described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under Section
- 3020 [59-12-104.2](#);
- 3021 (46) the lease or use of a vehicle issued a temporary sports event registration certificate
- 3022 in accordance with Section [41-3-306](#) for the event period specified on the temporary sports
- 3023 event registration certificate;
- 3024 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 3025 adopted by the Public Service Commission only for purchase of electricity produced from a
- 3026 new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 3027 Public Service Commission; and
- 3028 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
- 3029 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
- 3030 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
- 3031 customer would have paid absent the tariff;
- 3032 (48) sales or rentals of mobility enhancing equipment if a person presents a

- 3033 prescription for the mobility enhancing equipment;
- 3034 (49) sales of water in a:
 - 3035 (a) pipe;
 - 3036 (b) conduit;
 - 3037 (c) ditch; or
 - 3038 (d) reservoir;
- 3039 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 3040 or a foreign nation;
- 3041 (51) (a) sales of an item described in Subsection (51)(b) if the item:
 - 3042 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
 - 3043 (ii) has a gold, silver, or platinum content of 50% or more; and
- 3044 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
 - 3045 (i) ingot;
 - 3046 (ii) bar;
 - 3047 (iii) medallion; or
 - 3048 (iv) decorative coin;
- 3049 (52) amounts paid on a sale-leaseback transaction;
- 3050 (53) sales of a prosthetic device:
 - 3051 (a) for use on or in a human; and
 - 3052 (b) (i) for which a prescription is required; or
 - 3053 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 3054 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 3055 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 3056 or equipment is primarily used in the production or postproduction of the following media for
- 3057 commercial distribution:
 - 3058 (i) a motion picture;
 - 3059 (ii) a television program;
 - 3060 (iii) a movie made for television;
 - 3061 (iv) a music video;
 - 3062 (v) a commercial;
 - 3063 (vi) a documentary; or

3064 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
3065 commission by administrative rule made in accordance with Subsection (54)(d); or

3066 (b) purchases, leases, or rentals of machinery or equipment by an establishment
3067 described in Subsection (54)(c) that is used for the production or postproduction of the
3068 following are subject to the taxes imposed by this chapter:

3069 (i) a live musical performance;

3070 (ii) a live news program; or

3071 (iii) a live sporting event;

3072 (c) the following establishments listed in the 1997 North American Industry
3073 Classification System of the federal Executive Office of the President, Office of Management
3074 and Budget, apply to Subsections (54)(a) and (b):

3075 (i) NAICS Code 512110; or

3076 (ii) NAICS Code 51219; and

3077 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3078 commission may by rule:

3079 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

3080 or

3081 (ii) define:

3082 (A) "commercial distribution";

3083 (B) "live musical performance";

3084 (C) "live news program"; or

3085 (D) "live sporting event";

3086 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
3087 on or before June 30, 2027, of tangible personal property that:

3088 (i) is leased or purchased for or by a facility that:

3089 (A) is an alternative energy electricity production facility;

3090 (B) is located in the state; and

3091 (C) (I) becomes operational on or after July 1, 2004; or

3092 (II) has its generation capacity increased by one or more megawatts on or after July 1,
3093 2004, as a result of the use of the tangible personal property;

3094 (ii) has an economic life of five or more years; and

3095 (iii) is used to make the facility or the increase in capacity of the facility described in
3096 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
3097 transmission grid including:

- 3098 (A) a wind turbine;
- 3099 (B) generating equipment;
- 3100 (C) a control and monitoring system;
- 3101 (D) a power line;
- 3102 (E) substation equipment;
- 3103 (F) lighting;
- 3104 (G) fencing;
- 3105 (H) pipes; or
- 3106 (I) other equipment used for locating a power line or pole; and

3107 (b) this Subsection (55) does not apply to:

- 3108 (i) tangible personal property used in construction of:
 - 3109 (A) a new alternative energy electricity production facility; or
 - 3110 (B) the increase in the capacity of an alternative energy electricity production facility;
- 3111 (ii) contracted services required for construction and routine maintenance activities;

3112 and

3113 (iii) unless the tangible personal property is used or acquired for an increase in capacity
3114 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
3115 acquired after:

- 3116 (A) the alternative energy electricity production facility described in Subsection
3117 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
- 3118 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
3119 in Subsection (55)(a)(iii);

3120 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
3121 on or before June 30, 2027, of tangible personal property that:

- 3122 (i) is leased or purchased for or by a facility that:
 - 3123 (A) is a waste energy production facility;
 - 3124 (B) is located in the state; and
 - 3125 (C) (I) becomes operational on or after July 1, 2004; or

3126 (II) has its generation capacity increased by one or more megawatts on or after July 1,
3127 2004, as a result of the use of the tangible personal property;

3128 (ii) has an economic life of five or more years; and

3129 (iii) is used to make the facility or the increase in capacity of the facility described in
3130 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
3131 transmission grid including:

3132 (A) generating equipment;

3133 (B) a control and monitoring system;

3134 (C) a power line;

3135 (D) substation equipment;

3136 (E) lighting;

3137 (F) fencing;

3138 (G) pipes; or

3139 (H) other equipment used for locating a power line or pole; and

3140 (b) this Subsection (56) does not apply to:

3141 (i) tangible personal property used in construction of:

3142 (A) a new waste energy facility; or

3143 (B) the increase in the capacity of a waste energy facility;

3144 (ii) contracted services required for construction and routine maintenance activities;

3145 and

3146 (iii) unless the tangible personal property is used or acquired for an increase in capacity
3147 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

3148 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
3149 described in Subsection (56)(a)(iii); or

3150 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
3151 in Subsection (56)(a)(iii);

3152 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
3153 or before June 30, 2027, of tangible personal property that:

3154 (i) is leased or purchased for or by a facility that:

3155 (A) is located in the state;

3156 (B) produces fuel from alternative energy, including:

- 3157 (I) methanol; or
- 3158 (II) ethanol; and
- 3159 (C) (I) becomes operational on or after July 1, 2004; or
- 3160 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
- 3161 a result of the installation of the tangible personal property;
- 3162 (ii) has an economic life of five or more years; and
- 3163 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 3164 (b) this Subsection (57) does not apply to:
- 3165 (i) tangible personal property used in construction of:
- 3166 (A) a new facility described in Subsection (57)(a)(i); or
- 3167 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
- 3168 (ii) contracted services required for construction and routine maintenance activities;
- 3169 and
- 3170 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 3171 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
- 3172 (A) the facility described in Subsection (57)(a)(i) is operational; or
- 3173 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 3174 (58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product
- 3175 transferred electronically to a person within this state if that tangible personal property or
- 3176 product transferred electronically is subsequently shipped outside the state and incorporated
- 3177 pursuant to contract into and becomes a part of real property located outside of this state; and
- 3178 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
- 3179 state or political entity to which the tangible personal property is shipped imposes a sales, use,
- 3180 gross receipts, or other similar transaction excise tax on the transaction against which the other
- 3181 state or political entity allows a credit for sales and use taxes imposed by this chapter;
- 3182 (59) purchases:
- 3183 (a) of one or more of the following items in printed or electronic format:
- 3184 (i) a list containing information that includes one or more:
- 3185 (A) names; or
- 3186 (B) addresses; or
- 3187 (ii) a database containing information that includes one or more:

3188 (A) names; or
3189 (B) addresses; and
3190 (b) used to send direct mail;
3191 (60) redemptions or repurchases of a product by a person if that product was:
3192 (a) delivered to a pawnbroker as part of a pawn transaction; and
3193 (b) redeemed or repurchased within the time period established in a written agreement
3194 between the person and the pawnbroker for redeeming or repurchasing the product;
3195 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
3196 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
3197 and
3198 (ii) has a useful economic life of one or more years; and
3199 (b) the following apply to Subsection (61)(a):
3200 (i) telecommunications enabling or facilitating equipment, machinery, or software;
3201 (ii) telecommunications equipment, machinery, or software required for 911 service;
3202 (iii) telecommunications maintenance or repair equipment, machinery, or software;
3203 (iv) telecommunications switching or routing equipment, machinery, or software; or
3204 (v) telecommunications transmission equipment, machinery, or software;
3205 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
3206 personal property or a product transferred electronically that are used in the research and
3207 development of alternative energy technology; and
3208 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3209 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
3210 purchases of tangible personal property or a product transferred electronically that are used in
3211 the research and development of alternative energy technology;
3212 (63) (a) purchases of tangible personal property or a product transferred electronically
3213 if:
3214 (i) the tangible personal property or product transferred electronically is:
3215 (A) purchased outside of this state;
3216 (B) brought into this state at any time after the purchase described in Subsection
3217 (63)(a)(i)(A); and
3218 (C) used in conducting business in this state; and

- 3219 (ii) for:
- 3220 (A) tangible personal property or a product transferred electronically other than the
- 3221 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
- 3222 for a purpose for which the property is designed occurs outside of this state; or
- 3223 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 3224 outside of this state and not required to be registered in this state under Section [41-1a-202](#) or
- 3225 [73-18-9](#) based on residency;
- 3226 (b) the exemption provided for in Subsection (63)(a) does not apply to:
- 3227 (i) a lease or rental of tangible personal property or a product transferred electronically;
- 3228 or
- 3229 (ii) a sale of a vehicle exempt under Subsection (33); and
- 3230 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 3231 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
- 3232 following:
- 3233 (i) conducting business in this state if that phrase has the same meaning in this
- 3234 Subsection (63) as in Subsection (24);
- 3235 (ii) the first use of tangible personal property or a product transferred electronically if
- 3236 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
- 3237 (iii) a purpose for which tangible personal property or a product transferred
- 3238 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
- 3239 Subsection (24);
- 3240 (64) sales of disposable home medical equipment or supplies if:
- 3241 (a) a person presents a prescription for the disposable home medical equipment or
- 3242 supplies;
- 3243 (b) the disposable home medical equipment or supplies are used exclusively by the
- 3244 person to whom the prescription described in Subsection (64)(a) is issued; and
- 3245 (c) the disposable home medical equipment and supplies are listed as eligible for
- 3246 payment under:
- 3247 (i) Title XVIII, federal Social Security Act; or
- 3248 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 3249 (65) sales:

- 3250 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
- 3251 District Act; or
- 3252 (b) of tangible personal property to a subcontractor of a public transit district, if the
- 3253 tangible personal property is:
 - 3254 (i) clearly identified; and
 - 3255 (ii) installed or converted to real property owned by the public transit district;
- 3256 (66) sales of construction materials:
 - 3257 (a) purchased on or after July 1, 2010;
 - 3258 (b) purchased by, on behalf of, or for the benefit of an international airport:
 - 3259 (i) located within a county of the first class; and
 - 3260 (ii) that has a United States customs office on its premises; and
 - 3261 (c) if the construction materials are:
 - 3262 (i) clearly identified;
 - 3263 (ii) segregated; and
 - 3264 (iii) installed or converted to real property:
 - 3265 (A) owned or operated by the international airport described in Subsection (66)(b); and
 - 3266 (B) located at the international airport described in Subsection (66)(b);
- 3267 (67) sales of construction materials:
 - 3268 (a) purchased on or after July 1, 2008;
 - 3269 (b) purchased by, on behalf of, or for the benefit of a new airport:
 - 3270 (i) located within a county of the second class; and
 - 3271 (ii) that is owned or operated by a city in which an airline as defined in Section
 - 3272 [59-2-102](#) is headquartered; and
 - 3273 (c) if the construction materials are:
 - 3274 (i) clearly identified;
 - 3275 (ii) segregated; and
 - 3276 (iii) installed or converted to real property:
 - 3277 (A) owned or operated by the new airport described in Subsection (67)(b);
 - 3278 (B) located at the new airport described in Subsection (67)(b); and
 - 3279 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 3280 (68) except for the tax imposed by Subsection [59-12-103\(2\)\(d\)](#), sales of fuel to a

3281 common carrier that is a railroad for use in a locomotive engine;

3282 (69) purchases and sales described in Section [63H-4-111](#);

3283 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and

3284 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of

3285 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

3286 lists a state or country other than this state as the location of registry of the fixed wing turbine

3287 powered aircraft; or

3288 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul

3289 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of

3290 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

3291 lists a state or country other than this state as the location of registry of the fixed wing turbine

3292 powered aircraft;

3293 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:

3294 (a) to a person admitted to an institution of higher education; and

3295 (b) by a seller, other than a bookstore owned by an institution of higher education, if

3296 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a

3297 textbook for a higher education course;

3298 (72) a license fee or tax a municipality imposes in accordance with Subsection

3299 [10-1-203\(5\)](#) on a purchaser from a business for which the municipality provides an enhanced

3300 level of municipal services;

3301 (73) amounts paid or charged for construction materials used in the construction of a

3302 new or expanding life science research and development facility in the state, if the construction

3303 materials are:

3304 (a) clearly identified;

3305 (b) segregated; and

3306 (c) installed or converted to real property;

3307 (74) amounts paid or charged for:

3308 (a) a purchase or lease of machinery and equipment that:

3309 (i) are used in performing qualified research:

3310 (A) as defined in Section 41(d), Internal Revenue Code; and

3311 (B) in the state; and

- 3312 (ii) have an economic life of three or more years; and
- 3313 (b) normal operating repair or replacement parts:
- 3314 (i) for the machinery and equipment described in Subsection (74)(a); and
- 3315 (ii) that have an economic life of three or more years;
- 3316 (75) a sale or lease of tangible personal property used in the preparation of prepared
- 3317 food if:
- 3318 (a) for a sale:
- 3319 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 3320 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 3321 tangible personal property prior to making the sale; or
- 3322 (b) for a lease:
- 3323 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 3324 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 3325 personal property prior to making the lease;
- 3326 (76) (a) purchases of machinery or equipment if:
- 3327 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 3328 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 3329 System of the federal Executive Office of the President, Office of Management and Budget;
- 3330 (ii) the machinery or equipment:
- 3331 (A) has an economic life of three or more years; and
- 3332 (B) is used by one or more persons who pay admission or user fees described in
- 3333 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 3334 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 3335 (A) amounts paid or charged as admission or user fees described in Subsection
- 3336 59-12-103(1)(f); and
- 3337 (B) subject to taxation under this chapter; and
- 3338 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3339 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
- 3340 previous calendar quarter is:
- 3341 (i) amounts paid or charged as admission or user fees described in Subsection
- 3342 59-12-103(1)(f); and

- 3343 (ii) subject to taxation under this chapter;
- 3344 (77) purchases of a short-term lodging consumable by a business that provides
3345 accommodations and services described in Subsection 59-12-103(1)(i);
- 3346 (78) amounts paid or charged to access a database:
- 3347 (a) if the primary purpose for accessing the database is to view or retrieve information
3348 from the database; and
- 3349 (b) not including amounts paid or charged for a:
- 3350 (i) digital audio work;
- 3351 (ii) digital audio-visual work; or
- 3352 (iii) digital book;
- 3353 (79) amounts paid or charged for a purchase or lease made by an electronic financial
3354 payment service, of:
- 3355 (a) machinery and equipment that:
- 3356 (i) are used in the operation of the electronic financial payment service; and
- 3357 (ii) have an economic life of three or more years; and
- 3358 (b) normal operating repair or replacement parts that:
- 3359 (i) are used in the operation of the electronic financial payment service; and
- 3360 (ii) have an economic life of three or more years;
- 3361 (80) sales of a fuel cell as defined in Section 54-15-102;
- 3362 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
3363 product transferred electronically if the tangible personal property or product transferred
3364 electronically:
- 3365 (a) is stored, used, or consumed in the state; and
- 3366 (b) is temporarily brought into the state from another state:
- 3367 (i) during a disaster period as defined in Section 53-2a-1202;
- 3368 (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 3369 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 3370 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 3371 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
3372 in Section [~~39-9-102~~] 39A-7-102, made pursuant to [~~Title 39, Chapter 9~~] Title 39A, Chapter 7,
3373 State Morale, Welfare, and Recreation Program;

- 3374 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 3375 (84) amounts paid or charged for a purchase or lease made by a qualifying data center
- 3376 or an occupant of a qualifying data center of machinery, equipment, or normal operating repair
- 3377 or replacement parts, if the machinery, equipment, or normal operating repair or replacement
- 3378 parts:
- 3379 (a) are used in:
- 3380 (i) the operation of the qualifying data center; or
- 3381 (ii) the occupant's operations in the qualifying data center; and
- 3382 (b) have an economic life of one or more years;
- 3383 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
- 3384 vehicle that includes cleaning or washing of the interior of the vehicle;
- 3385 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 3386 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
- 3387 or consumed:
- 3388 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
- 3389 in Section 79-6-701 located in the state;
- 3390 (b) if the machinery, equipment, normal operating repair or replacement parts,
- 3391 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
- 3392 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
- 3393 added to gasoline or diesel fuel;
- 3394 (ii) research and development;
- 3395 (iii) transporting, storing, or managing raw materials, work in process, finished
- 3396 products, and waste materials produced from refining gasoline or diesel fuel, or adding
- 3397 blendstock to gasoline or diesel fuel;
- 3398 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
- 3399 refining; or
- 3400 (v) preventing, controlling, or reducing pollutants from refining; and
- 3401 (c) if the person holds a valid refiner tax exemption certification as defined in Section
- 3402 [79-6-701](#);
- 3403 (87) amounts paid to or charged by a proprietor for accommodations and services, as
- 3404 defined in Section [63H-1-205](#), if the proprietor is subject to the MIDA accommodations tax

3405 imposed under Section [63H-1-205](#);

3406 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
3407 operating repair or replacement parts, or materials, except for office equipment or office
3408 supplies, by an establishment, as the commission defines that term in accordance with Title
3409 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

3410 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
3411 American Industry Classification System of the federal Executive Office of the President,
3412 Office of Management and Budget;

3413 (b) is located in this state; and

3414 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
3415 materials in the operation of the establishment; and

3416 (89) amounts paid or charged for an item exempt under Section [59-12-104.10](#).

3417 Section 131. Section **76-5-102.4** is amended to read:

3418 **76-5-102.4. Assault against peace officer or a military servicemember in uniform**

3419 **-- Penalties.**

3420 (1) As used in this section:

3421 (a) "Assault" means the same as that term is defined in Section [76-5-102](#).

3422 (b) "Military servicemember in uniform" means:

3423 (i) a member of any branch of the United States military who is wearing a uniform as
3424 authorized by the member's branch of service; or

3425 (ii) a member of the National Guard serving as provided in Section [~~39-1-5 or 39-1-9~~]
3426 [39A-3-103](#).

3427 (c) "Peace officer" means:

3428 (i) a law enforcement officer certified under Section [53-13-103](#);

3429 (ii) a correctional officer under Section [53-13-104](#);

3430 (iii) a special function officer under Section [53-13-105](#); or

3431 (iv) a federal officer under Section [53-13-106](#).

3432 (d) "Threat of violence" means the same as that term is defined in Section [76-5-107](#).

3433 (2) A person is guilty of a class A misdemeanor, except as provided in Subsections (3)
3434 and (4), who:

3435 (a) commits an assault or threat of violence against a peace officer, with knowledge that

3436 the person is a peace officer, and when the peace officer is acting within the scope of authority
3437 as a peace officer; or

3438 (b) commits an assault or threat of violence against a military servicemember in
3439 uniform when that servicemember is on orders and acting within the scope of authority granted
3440 to the military servicemember in uniform.

3441 (3) A person who violates Subsection (2) is guilty of a third degree felony if the
3442 person:

3443 (a) has been previously convicted of a class A misdemeanor or a felony violation of
3444 this section; or

3445 (b) the person causes substantial bodily injury.

3446 (4) A person who violates Subsection (2) is guilty of a second degree felony if the
3447 person uses:

3448 (a) a dangerous weapon as defined in Section [76-1-601](#); or

3449 (b) other means or force likely to produce death or serious bodily injury.

3450 (5) A person who violates this section shall serve, in jail or another correctional
3451 facility, a minimum of:

3452 (a) 90 consecutive days for a second offense; and

3453 (b) 180 consecutive days for each subsequent offense.

3454 (6) The court may suspend the imposition or execution of the sentence required under
3455 Subsection (5) if the court finds that the interests of justice would be best served by the
3456 suspension and the court makes specific findings concerning the disposition on the record.

3457 (7) This section does not affect or limit any individual's constitutional right to the
3458 lawful expression of free speech, the right of assembly, or any other recognized rights secured
3459 by the Constitution or laws of Utah or by the Constitution or laws of the United States.

3460 Section 132. Section **78B-20-302** is amended to read:

3461 **78B-20-302. Proceeding for temporary custody -- Order.**

3462 (1) After a deploying parent receives notice of deployment and until the deployment
3463 terminates, a court may issue a temporary order granting custodial responsibility unless
3464 prohibited by Section ~~[39-7-105]~~ [39A-6-105](#) and the Servicemembers Civil Relief Act, 50
3465 U.S.C. Appendix Sections 521 and 522. A court may not issue a permanent order granting
3466 custodial responsibility without the consent of the deploying parent.

3467 (2) At any time after a deploying parent receives notice of deployment, either parent
3468 may file a motion regarding custodial responsibility of a child during deployment. The motion
3469 shall be filed in a pending proceeding for custodial responsibility in a court with jurisdiction
3470 under Section [78B-20-104](#) or, if there is no pending proceeding in a court with jurisdiction
3471 under Section [78B-20-104](#), in a new action for granting custodial responsibility during
3472 deployment.

3473 Section 133. Section [78B-20-311](#) is amended to read:

3474 **[78B-20-311. Modifying or terminating grant of custodial responsibility to](#)**
3475 **[nonparent.](#)**

3476 (1) Except for an order under Section [78B-20-305](#), except as otherwise provided in
3477 Subsection (2), and consistent with Section [[39-7-105](#)] [39A-6-105](#) and the Servicemembers
3478 Civil Relief Act, 50 U.S.C. Appendix Sections 521 and 522, on motion of a deploying parent,
3479 other parent, or any nonparent to whom caretaking authority, decision-making authority, or
3480 limited contact has been granted, the court may modify or terminate the grant if the
3481 modification or termination is consistent with this part and it is in the best interest of the child.
3482 A modification is temporary and terminates pursuant to Part 4, Return from Deployment, after
3483 the deploying parent returns from deployment, unless the grant has been terminated before that
3484 time by court order.

3485 (2) On motion of a deploying parent, the court shall terminate a grant of limited
3486 contact.

3487 Section 134. **Repealer.**

3488 This bill repeals:

3489 Section [39-1-2](#), **Militia divided into two parts.**

3490 Section [39-1-4](#), **Staff of commander in chief.**

3491 Section [39-1-5](#), **Governor may call guard into active service -- Authority.**

3492 Section [39-1-7](#), **Muster of unorganized militia.**

3493 Section [39-1-10](#), **Unorganized militia in service, how governed.**

3494 Section [39-1-12.5](#), **Convening authority for military court.**

3495 Section [39-1-13](#), **Adjutant general -- As disbursing and property officer.**

3496 Section [39-1-14](#), **Adjutant general -- Drawing vouchers for property damage.**

3497 Section [39-1-15](#), **Adjutant general -- Disposition of unserviceable property.**

- 3498 Section **39-1-16**, Adjutant general -- Rendering accounts.
- 3499 Section **39-1-17**, Adjutant general -- Custodian of military trophies.
- 3500 Section **39-1-18**, Director of joint staff -- Assistant adjutant general for the army --
- 3501 **Assistant adjutant general for air -- Commander, land component command -- Chief of**
- 3502 **staff for air -- Officer for permanent duty as personnel officer.**
- 3503 Section **39-1-19**, Clerical assistance.
- 3504 Section **39-1-21**, Adjutant general -- Salary.
- 3505 Section **39-1-22**, Caretakers.
- 3506 Section **39-1-24**, Duties of assistant adjutants general.
- 3507 Section **39-1-25**, Property and fiscal officer of the United States for Utah.
- 3508 Section **39-1-26**, Assistant quartermaster-general.
- 3509 Section **39-1-28**, Loss of property -- Liability.
- 3510 Section **39-1-29**, Organization of National Guard controlled by federal law.
- 3511 Section **39-1-30**, Officers of National Guard -- Commissions.
- 3512 Section **39-1-31**, Commissions to officers -- Relative rank.
- 3513 Section **39-1-32**, National Guard -- Enlistment -- Qualifications -- Discharge.
- 3514 Section **39-1-33**, Noncommissioned officers.
- 3515 Section **39-1-34**, Excuse from drill -- Furloughs and leaves of absence.
- 3516 Section **39-1-35**, State employees in National Guard -- Care of dependents when
- 3517 **called into service.**
- 3518 Section **39-1-37**, Military duties.
- 3519 Section **39-1-38**, Regulations and forms.
- 3520 Section **39-1-38.5**, Utah Manual for Military Courts to be issued -- Military court
- 3521 **jurisdiction.**
- 3522 Section **39-1-39**, Orders for duty -- How served.
- 3523 Section **39-1-41**, Discharge or dismissal.
- 3524 Section **39-1-44**, Members of military courts exempt from liability.
- 3525 Section **39-1-45**, Jurisdiction presumed.
- 3526 Section **39-1-46**, Arsenal -- Military supplies -- Loss.
- 3527 Section **39-1-52**, Encampments.
- 3528 Section **39-1-53**, Military units not to leave state.

- 3529 Section **39-1-54**, Privilege from arrest or citation -- Exceptions.
- 3530 Section **39-1-56**, Execution of a judgment imposing a fine -- Disposition of fines.
- 3531 Section **39-1-58**, Vacating officer commissions -- Placement of officers in reserves.
- 3532 Section **39-1-60**, Laws and regulations of United States control.
- 3533 Section **39-1-62**, Group life insurance for members of National Guard.
- 3534 Section **39-2-7**, Budget -- Annual legislative approval.
- 3535 Section **39-4-2**, Governor to prescribe rules and regulations.
- 3536 Section **39-4-6**, Forces of another state in fresh pursuit may make arrests.
- 3537 Section **39-4-13**, Short title.
- 3538 Section **39-5-1**, Power of governor to execute.
- 3539 Section **39-5-2**, Form of compact.
- 3540 Section **39-5-3**, Owner of property free from liability for injuries to persons or
- 3541 **property during actual, impending, or mock attack.**
- 3542 Section **39-6-18**, Convening military court.
- 3543 Section **39-6-21**, Military court -- Duties of convening authority.
- 3544 Section **39-6-36**, Desertion or absence without leave and other offenses -- Time
- 3545 **limit on trial -- Tolling of time limits.**
- 3546 Section **39-6-48**, Cruel and unusual punishments -- Use of irons.
- 3547 Section **39-6-57**, Convening authority -- Approval of findings and sentence.
- 3548 Section **39-6-111**, Action by military court -- Protection from prosecution.
- 3549 Section **39-6-112**, Presumption of military court jurisdiction.
- 3550 Section **39-6-113**, Jurisdiction over offenses.
- 3551 Section **39-7-101**, Short title.
- 3552 Section **39-7-103**, Application of this chapter.
- 3553 Section **39-8-101**, Definitions.
- 3554 Section **39-8-102**, Counseling program.
- 3555 Section **39-9-106**, Risk management.
- 3556 Section **39-9-107**, Equipment rentals and sales of food and beverage.