

TITLE 71A - VETERANS AND MILITARY AFFAIRS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson S. Burton

Senate Sponsor: Todd D. Weiler

LONG TITLE

Committee Note:

The Government Operations Interim Committee recommended this bill.

Legislative Vote: 11 voting for 0 voting against 3 absent

General Description:

This bill restructures, reorganizes, and rewrites provisions of Title 71, Veterans, creates Title 71A, Veterans and Military Affairs, and makes conforming changes.

Highlighted Provisions:

This bill:

▶ restructures, reorganizes, and rewrites some of the provisions of Title 71, Veterans, and creates Title 71A, Veterans and Military Affairs;

▶ outlines the new title as follows:

- Chapter 1, Veterans and Military Affairs;
- Chapter 2, Veterans Preference;
- Chapter 3, Veterans Service Organizations Assistance Contracts;
- Chapter 4, Veterans Benefits Application Assistance Act;
- Chapter 5, Veterans Assistance Registry;
- Chapter 6, State Veterans Nursing Home;
- Chapter 7, Veterans Memorials and Cemeteries; and
- Chapter 8, Employees in Military Service;

▶ provides definitions;



- 28 ▶ removes outdated language;
- 29 ▶ standardizes the term "service member";
- 30 ▶ removes requirement that the Veterans Advisory Council be consulted on the
- 31 awarding of grants;
- 32 ▶ removes the requirement that deputy directors be veterans;
- 33 ▶ clarifies eligibility for veterans preference;
- 34 ▶ clarifies job retention for public officers called to serve in the armed forces; and
- 35 ▶ makes technical and conforming changes.

36 Money Appropriated in this Bill:

37 None

38 Other Special Clauses:

39 None

40 Utah Code Sections Affected:

41 AMENDS:

- 42 **30-3-10**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 43 **30-3-10.1**, as last amended by Laws of Utah 2017, Chapter 224
- 44 **30-3-10.4**, as last amended by Laws of Utah 2019, Chapter 188
- 45 **30-3-10.8**, as last amended by Laws of Utah 2017, Chapter 224
- 46 **34-50-102**, as last amended by Laws of Utah 2016, Chapter 230
- 47 **34-50-103**, as last amended by Laws of Utah 2020, Chapter 333
- 48 **39A-3-202**, as renumbered and amended by Laws of Utah 2022, Chapter 373
- 49 **53B-8-102**, as last amended by Laws of Utah 2020, Chapter 37
- 50 **53G-6-306**, as last amended by Laws of Utah 2022, Chapter 464
- 51 **53G-6-402**, as last amended by Laws of Utah 2022, Chapters 378 and 464
- 52 **53G-6-502**, as last amended by Laws of Utah 2022, Chapter 352
- 53 **59-10-103**, as last amended by Laws of Utah 2021, Chapter 367
- 54 **76-5-102.4**, as last amended by Laws of Utah 2022, Chapters 181 and 373
- 55 **78A-5-302**, as last amended by Laws of Utah 2021, Chapter 93
- 56 **78B-20-102**, as last amended by Laws of Utah 2017, Chapter 224
- 57 **78B-20-107**, as enacted by Laws of Utah 2016, Chapter 292

58 ENACTS:

59 [71A-1-201](#), Utah Code Annotated 1953

60 [71A-1-202](#), Utah Code Annotated 1953

61 [71A-1-302](#), Utah Code Annotated 1953

62 RENUMBERS AND AMENDS:

63 [71A-1-101](#), (Renumbered from 71-8-1, as last amended by Laws of Utah 2018, Chapter
64 39)

65 [71A-1-301](#), (Renumbered from 71-8-4, as last amended by Laws of Utah 2018, Chapter
66 39)

67 [71A-2-101](#), (Renumbered from 71-10-1, as last amended by Laws of Utah 2016,
68 Chapter 230)

69 [71A-2-102](#), (Renumbered from 71-10-2, as last amended by Laws of Utah 2018,
70 Chapter 39)

71 [71A-2-103](#), (Renumbered from 71-10-3, as last amended by Laws of Utah 2018,
72 Chapter 148)

73 [71A-3-101](#), (Renumbered from 71-9-1, as last amended by Laws of Utah 2018, Chapter
74 39)

75 [71A-3-102](#), (Renumbered from 71-9-2, as last amended by Laws of Utah 2018, Chapter
76 39)

77 [71A-3-103](#), (Renumbered from 71-9-5, as enacted by Laws of Utah 1981, Chapter 282)

78 [71A-4-101](#), (Renumbered from 71-13-102, as last amended by Laws of Utah 2018,
79 Chapter 39)

80 [71A-4-102](#), (Renumbered from 71-13-103, as enacted by Laws of Utah 2015, Chapter
81 123)

82 [71A-4-103](#), (Renumbered from 71-13-104, as enacted by Laws of Utah 2015, Chapter
83 123)

84 [71A-4-104](#), (Renumbered from 71-13-105, as last amended by Laws of Utah 2018,
85 Chapter 39)

86 [71A-4-105](#), (Renumbered from 71-13-106, as enacted by Laws of Utah 2015, Chapter
87 123)

88 [71A-5-101](#), (Renumbered from 71-12-102, as last amended by Laws of Utah 2018,
89 Chapter 39)

- 90 **71A-5-102**, (Renumbered from 71-12-103, as last amended by Laws of Utah 2018,
- 91 Chapter 39)
- 92 **71A-5-103**, (Renumbered from 71-12-104, as enacted by Laws of Utah 2014, Chapter
- 93 91)
- 94 **71A-6-101**, (Renumbered from 71-11-2, as last amended by Laws of Utah 2018,
- 95 Chapter 39)
- 96 **71A-6-102**, (Renumbered from 71-11-3, as last amended by Laws of Utah 2018,
- 97 Chapter 39)
- 98 **71A-6-103**, (Renumbered from 71-11-5, as last amended by Laws of Utah 2018,
- 99 Chapter 39)
- 100 **71A-6-104**, (Renumbered from 71-11-6, as last amended by Laws of Utah 2016,
- 101 Chapter 230)
- 102 **71A-6-105**, (Renumbered from 71-11-7, as last amended by Laws of Utah 2018,
- 103 Chapter 39)
- 104 **71A-6-106**, (Renumbered from 71-11-8, as last amended by Laws of Utah 2018,
- 105 Chapter 39)
- 106 **71A-6-107**, (Renumbered from 71-11-9, as last amended by Laws of Utah 2005, First
- 107 Special Session, Chapter 7)
- 108 **71A-6-108**, (Renumbered from 71-11-10, as last amended by Laws of Utah 2007,
- 109 Chapter 173)
- 110 **71A-7-101**, (Renumbered from 71-2-1, Utah Code Annotated 1953)
- 111 **71A-7-102**, (Renumbered from 71-2-2, as last amended by Laws of Utah 2001, Chapter
- 112 30)
- 113 **71A-7-103**, (Renumbered from 71-2-3, as last amended by Laws of Utah 1993, Chapter
- 114 227)
- 115 **71A-7-201**, (Renumbered from 71-7-1, as enacted by Laws of Utah 1961, Chapter 21)
- 116 **71A-7-202**, (Renumbered from 71-7-2, as last amended by Laws of Utah 2018, Chapter
- 117 39)
- 118 **71A-7-203**, (Renumbered from 71-7-5, as last amended by Laws of Utah 2018, Chapter
- 119 39)
- 120 **71A-7-301**, (Renumbered from 71-7-3, as last amended by Laws of Utah 2020, Chapter

121 154)
 122 **71A-8-101**, (Renumbered from 39-3-1, as repealed and reenacted by Laws of Utah
 123 1991, Chapter 65)
 124 **71A-8-102**, (Renumbered from 39-3-2, as last amended by Laws of Utah 2003, Chapter
 125 217)
 126 **71A-8-103**, (Renumbered from 39-1-64, as enacted by Laws of Utah 2004, Chapter 82)
 127 **71A-8-104**, (Renumbered from 39-7-118, as enacted by Laws of Utah 1997, Chapter
 128 306)

129 REPEALS:

130 **39-1-36**, as last amended by Laws of Utah 1989, Chapter 15
 131 **71-3-1**, as last amended by Laws of Utah 2018, Chapter 39
 132 **71-8-2**, as last amended by Laws of Utah 2020, Chapter 409
 133 **71-8-3**, as last amended by Laws of Utah 2018, Chapter 39
 134 **71-8-5**, as last amended by Laws of Utah 2018, Chapter 39
 135 **71-8-6**, as last amended by Laws of Utah 2018, Chapter 39
 136 **71-8-7**, as last amended by Laws of Utah 2018, Chapter 39
 137 **71-8-8**, as enacted by Laws of Utah 2013, Chapter 308
 138 **71-11-1**, as last amended by Laws of Utah 2018, Chapter 39
 139 **71-11-4**, as last amended by Laws of Utah 2018, Chapter 39
 140 **71-12-101**, as last amended by Laws of Utah 2018, Chapter 39
 141 **71-13-101**, as enacted by Laws of Utah 2015, Chapter 123

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

144 Section 1. Section **30-3-10** is amended to read:

145 **30-3-10. Custody of a child -- Custody factors.**

146 (1) If a married couple having one or more minor children are separated, or the married
 147 couple's marriage is declared void or dissolved, the court shall enter, and has continuing
 148 jurisdiction to modify, an order of custody and parent-time.

149 (2) In determining any form of custody and parent-time under Subsection (1), the court
 150 shall consider the best interest of the child and may consider among other factors the court
 151 finds relevant, the following for each parent:

- 152 (a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional
153 abuse, involving the child, the parent, or a household member of the parent;
- 154 (b) the parent's demonstrated understanding of, responsiveness to, and ability to meet
155 the developmental needs of the child, including the child's:
 - 156 (i) physical needs;
 - 157 (ii) emotional needs;
 - 158 (iii) educational needs;
 - 159 (iv) medical needs; and
 - 160 (v) any special needs;
- 161 (c) the parent's capacity and willingness to function as a parent, including:
 - 162 (i) parenting skills;
 - 163 (ii) co-parenting skills, including:
 - 164 (A) ability to appropriately communicate with the other parent;
 - 165 (B) ability to encourage the sharing of love and affection; and
 - 166 (C) willingness to allow frequent and continuous contact between the child and the
167 other parent, except that, if the court determines that the parent is acting to protect the child
168 from domestic violence, neglect, or abuse, the parent's protective actions may be taken into
169 consideration; and
 - 170 (iii) ability to provide personal care rather than surrogate care;
- 171 (d) in accordance with Subsection (10), the past conduct and demonstrated moral
172 character of the parent;
- 173 (e) the emotional stability of the parent;
- 174 (f) the parent's inability to function as a parent because of drug abuse, excessive
175 drinking, or other causes;
- 176 (g) whether the parent has intentionally exposed the child to pornography or material
177 harmful to minors, as "material" and "harmful to minors" are defined in Section [76-10-1201](#);
- 178 (h) the parent's reasons for having relinquished custody or parent-time in the past;
- 179 (i) duration and depth of desire for custody or parent-time;
- 180 (j) the parent's religious compatibility with the child;
- 181 (k) the parent's financial responsibility;
- 182 (l) the child's interaction and relationship with step-parents, extended family members

- 183 of other individuals who may significantly affect the child's best interests;
- 184 (m) who has been the primary caretaker of the child;
- 185 (n) previous parenting arrangements in which the child has been happy and
186 well-adjusted in the home, school, and community;
- 187 (o) the relative benefit of keeping siblings together;
- 188 (p) the stated wishes and concerns of the child, taking into consideration the child's
189 cognitive ability and emotional maturity;
- 190 (q) the relative strength of the child's bond with the parent, meaning the depth, quality,
191 and nature of the relationship between the parent and the child; and
- 192 (r) any other factor the court finds relevant.
- 193 (3) There is a rebuttable presumption that joint legal custody, as defined in Section
194 30-3-10.1, is in the best interest of the child, except in cases when there is:
- 195 (a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional
196 abuse involving the child, a parent, or a household member of the parent;
- 197 (b) special physical or mental needs of a parent or child, making joint legal custody
198 unreasonable;
- 199 (c) physical distance between the residences of the parents, making joint decision
200 making impractical in certain circumstances; or
- 201 (d) any other factor the court considers relevant including those listed in this section
202 and Section 30-3-10.2.
- 203 (4) (a) The person who desires joint legal custody shall file a proposed parenting plan
204 in accordance with Sections 30-3-10.8 and 30-3-10.9.
- 205 (b) A presumption for joint legal custody may be rebutted by a showing by a
206 preponderance of the evidence that it is not in the best interest of the child.
- 207 (5) (a) A child may not be required by either party to testify unless the trier of fact
208 determines that extenuating circumstances exist that would necessitate the testimony of the
209 child be heard and there is no other reasonable method to present the child's testimony.
- 210 (b) (i) The court may inquire of the child's and take into consideration the child's
211 desires regarding future custody or parent-time schedules, but the expressed desires are not
212 controlling and the court may determine the child's custody or parent-time otherwise.
- 213 (ii) The desires of a child 14 years ~~of age~~ old or older shall be given added weight,

214 but is not the single controlling factor.

215 (c) (i) If an interview with a child is conducted by the court pursuant to Subsection
216 (5)(b), the interview shall be conducted by the judge in camera.

217 (ii) The prior consent of the parties may be obtained but is not necessary if the court
218 finds that an interview with a child is the only method to ascertain the child's desires regarding
219 custody.

220 (6) (a) Except as provided in Subsection (6)(b), a court may not discriminate against a
221 parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining
222 whether a substantial change has occurred for the purpose of modifying an award of custody.

223 (b) The court may not consider the disability of a parent as a factor in awarding custody
224 or modifying an award of custody based on a determination of a substantial change in
225 circumstances, unless the court makes specific findings that:

226 (i) the disability significantly or substantially inhibits the parent's ability to provide for
227 the physical and emotional needs of the child at issue; and

228 (ii) the parent with a disability lacks sufficient human, monetary, or other resources
229 available to supplement the parent's ability to provide for the physical and emotional needs of
230 the child at issue.

231 (c) Nothing in this section may be construed to apply to adoption proceedings under
232 Title 78B, Chapter 6, Part 1, Utah Adoption Act.

233 (7) This section does not establish a preference for either parent solely because of the
234 gender of the parent.

235 (8) This section establishes neither a preference nor a presumption for or against joint
236 physical custody or sole physical custody, but allows the court and the family the widest
237 discretion to choose a parenting plan that is in the best interest of the child.

238 (9) When an issue before the court involves custodial responsibility in the event of a
239 deployment of one or both parents who are [~~servicemembers,~~] service members and the
240 [~~servicemember~~] service member has not yet been notified of deployment, the court shall
241 resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

242 (10) In considering the past conduct and demonstrated moral standards of each party
243 under Subsection (2)(d) or any other factor a court finds relevant, the court may not:

244 (a) consider or treat a parent's lawful possession or use of cannabis in a medicinal

245 dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in
246 accordance with Title 4, Chapter 41a, Cannabis Production Establishments, Title 26, Chapter
247 61a, Utah Medical Cannabis Act, or Subsection 58-37-3.7(2) or (3) any differently than the
248 court would consider or treat the lawful possession or use of any prescribed controlled
249 substance; or

250 (b) discriminate against a parent because of the parent's status as a:

251 (i) cannabis production establishment agent, as that term is defined in Section
252 4-41a-102;

253 (ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;

254 (iii) medical cannabis courier agent, as that term is defined in Section 26-61a-102; or

255 (iv) medical cannabis cardholder in accordance with Title 26, Chapter 61a, Utah
256 Medical Cannabis Act.

257 Section 2. Section 30-3-10.1 is amended to read:

258 **30-3-10.1. Definitions -- Joint legal custody -- Joint physical custody.**

259 As used in this chapter:

260 (1) (a) "Custodial responsibility" includes all powers and duties relating to caretaking
261 authority and decision-making authority for a child.

262 (b) "Custodial responsibility" includes physical custody, legal custody, parenting time,
263 right to access, visitation, and authority to grant limited contact with a child.

264 (2) "Joint legal custody":

265 (a) means the sharing of the rights, privileges, duties, and powers of a parent by both
266 parents, where specified;

267 (b) may include an award of exclusive authority by the court to one parent to make
268 specific decisions;

269 (c) does not affect the physical custody of the child except as specified in the order of
270 joint legal custody;

271 (d) is not based on awarding equal or nearly equal periods of physical custody of and
272 access to the child to each of the parents, as the best interest of the child often requires that a
273 primary physical residence for the child be designated; and

274 (e) does not prohibit the court from specifying one parent as the primary caretaker and
275 one home as the primary residence of the child.

- 276 (3) "Joint physical custody":
277 (a) means the child stays with each parent overnight for more than 30% of the year, and
278 both parents contribute to the expenses of the child in addition to paying child support;
279 (b) can mean equal or nearly equal periods of physical custody of and access to the
280 child by each of the parents, as required to meet the best interest of the child;
281 (c) may require that a primary physical residence for the child be designated; and
282 (d) does not prohibit the court from specifying one parent as the primary caretaker and
283 one home as the primary residence of the child.

284 (4) "[~~Servicemember~~] Service member" means a member of a uniformed service.

285 (5) "Uniformed service" means:

- 286 (a) active and reserve components of the United States Armed Forces;
287 (b) the United States Merchant Marine;
288 (c) the commissioned corps of the United States Public Health Service;
289 (d) the commissioned corps of the National Oceanic and Atmospheric Administration
290 of the United States; or
291 (e) the [~~national guard~~] National Guard of a state.

292 Section 3. Section **30-3-10.4** is amended to read:

293 **30-3-10.4. Modification or termination of order.**

294 (1) On the petition of one or both of the parents, or the joint legal or physical
295 custodians if they are not the parents, the court may, after a hearing, modify or terminate an
296 order that established joint legal custody or joint physical custody if:

- 297 (a) the verified petition or accompanying affidavit initially alleges that admissible
298 evidence will show that the circumstances of the child or one or both parents or joint legal or
299 physical custodians have materially and substantially changed since the entry of the order to be
300 modified;
301 (b) a modification of the terms and conditions of the order would be an improvement
302 for and in the best interest of the child; and
303 (c) (i) both parents have complied in good faith with the dispute resolution procedure
304 in accordance with Subsection [30-3-10.3\(7\)](#); or
305 (ii) if no dispute resolution procedure is contained in the order that established joint
306 legal custody or joint physical custody, the court orders the parents to participate in a dispute

307 resolution procedure in accordance with Subsection 30-3-10.2(5) unless the parents certify that,
308 in good faith, they have used a dispute resolution procedure to resolve their dispute.

309 (2) (a) In determining whether the best interest of a child will be served by either
310 modifying or terminating the joint legal custody or joint physical custody order, the court shall,
311 in addition to other factors the court considers relevant, consider the factors outlined in Section
312 30-3-10 and Subsection 30-3-10.2(2).

313 (b) A court order modifying or terminating an existing joint legal custody or joint
314 physical custody order shall contain written findings that:

315 (i) a material and substantial change of circumstance has occurred; and

316 (ii) a modification of the terms and conditions of the order would be an improvement
317 for and in the best interest of the child.

318 (c) The court shall give substantial weight to the existing joint legal custody or joint
319 physical custody order when the child is thriving, happy, and well-adjusted.

320 (3) The court shall, in every case regarding a petition for termination of a joint legal
321 custody or joint physical custody order, consider reasonable alternatives to preserve the
322 existing order in accordance with Subsection 30-3-10(3). The court may modify the terms and
323 conditions of the existing order in accordance with Subsection 30-3-10(8) and may order the
324 parents to file a parenting plan in accordance with this chapter.

325 (4) A parent requesting a modification from sole custody to joint legal custody or joint
326 physical custody or both, or any other type of shared parenting arrangement, shall file and serve
327 a proposed parenting plan with the petition to modify in accordance with Section 30-3-10.8.

328 (5) If the court finds that an action under this section is filed or answered frivolously
329 and in a manner designed to harass the other party, the court shall assess attorney fees as costs
330 against the offending party.

331 (6) If an issue before the court involves custodial responsibility in the event of
332 deployment of one or both parents who are [~~servicemembers~~] service members, and the
333 [~~servicemember~~] service member has not yet been notified of deployment, the court shall
334 resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

335 Section 4. Section 30-3-10.8 is amended to read:

336 **30-3-10.8. Parenting plan -- Filing -- Modifications.**

337 (1) In any proceeding under this chapter, including actions for paternity, a party

338 requesting joint custody, joint legal or physical custody, or any other type of shared parenting
339 arrangement, shall file and serve a proposed parenting plan at the time of the filing of their
340 original petition or at the time of filing their answer or counterclaim.

341 (2) In proceedings for a modification of custody provisions or modification of a
342 parenting plan, a proposed parenting plan shall be filed and served with the petition to modify,
343 or the answer or counterclaim to the petition to modify.

344 (3) A party who files a proposed parenting plan in compliance with this section may
345 move the court for an order of default to adopt the plan if the other party fails to file a proposed
346 parenting plan as required by this section.

347 (4) Either party may file and serve an amended proposed parenting plan according to
348 the rules for amending pleadings.

349 (5) The parent submitting a proposed parenting plan shall attach a verified statement
350 that the plan is proposed by that parent in good faith.

351 (6) Both parents may submit a parenting plan which has been agreed upon. A verified
352 statement, signed by both parents, shall be attached.

353 (7) If the parents file inconsistent parenting plans, the court may appoint a guardian ad
354 litem to represent the best interests of the child, who may, if necessary, file a separate parenting
355 plan reflecting the best interests of the child.

356 (8) When one or both parents are [~~a servicemember~~] service members, the parenting
357 plan shall be consistent with Subsection [30-3-10.9\(10\)](#). If after a parenting plan is adopted, one
358 or both parents become [~~servicemembers~~] service members, as soon as practical, the parents
359 shall amend the existing parenting plan to comply with Subsection [30-3-10.9\(10\)](#).

360 Section 5. Section **34-50-102** is amended to read:

361 **34-50-102. Definitions.**

362 As used in this chapter:

363 (1) "Department" means the [~~same as that term is defined in Section [71-11-2](#)~~]

364 Department of Veterans and Military Affairs, created in Section [71A-1-201](#).

365 (2) "Discharge document" means a document received by a [~~servicemember~~] service
366 member upon separation from military service, including:

367 (a) a DD 214, United States Department of Defense Certificate of Release or Discharge
368 from Active Duty;

- 369 (b) a DD 256, United States Department of Defense Honorable Discharge Certificate;
 370 (c) a DD 257, United States General Discharge Certificate; or
 371 (d) an NGB 22, Utah National Guard Certificate of Release or Discharge.

372 (3) "Preference eligible" means the same as that term is defined in Section ~~[71-10-1]~~
 373 71A-2-101.

374 (4) "Private employer" means the same as that term is defined in Section 63G-12-102.

375 (5) "Service member" means a currently serving member of the armed forces.

376 ~~[(5)]~~ (6) "Veteran" means the same as that term is defined in Section 68-3-12.5.

377 Section 6. Section 34-50-103 is amended to read:

378 **34-50-103. Voluntary veterans preference employment policy -- Private**
 379 **employment -- Antidiscrimination requirements.**

380 (1) A private sector employer may create a veterans employment preference policy
 381 ~~[that may also apply to a veteran's spouse].~~

382 (2) ~~[The]~~ A veterans employment preference policy shall be:

383 (a) in writing; and

384 (b) applied uniformly to employment decisions regarding hiring, promotion, or
 385 retention including during a reduction in force.

386 (3) A private employer may require a ~~[veteran]~~ preference eligible individual to submit
 387 a discharge document form or proof of current service in the armed forces to be eligible for the
 388 preference. If the applicant is the spouse of a veteran or service member, the employer may
 389 require that the spouse submit the veteran's discharge document or proof of current service in
 390 the armed forces.

391 (4) A private employer's veterans employment preference policy shall be publicly
 392 posted by the employer at the place of employment or on the Internet if the employer has a
 393 website or uses the Internet to advertise employment opportunities.

394 Section 7. Section 39A-3-202 is amended to read:

395 **39A-3-202. Pay and care of soldiers and airmen disabled while on state active**
 396 **duty.**

397 (1) (a) Before a ~~[servicemember]~~ service member may be considered disabled in
 398 accordance with this section, the Adjutant General shall determine whether the
 399 ~~[servicemember's]~~ service member's illness, injury, or disease was contracted or occurred

400 through the fault or negligence of the [servicemember] service member. If the [servicemember]
401 service member is determined to be at fault for an injury or developed a disability through his
402 or her own negligent actions, the [servicemember] service member is not entitled to any care,
403 pension, or benefit in accordance with this section.

404 (b) Notwithstanding Subsection (1)(a) the [servicemember] service member may be
405 eligible for benefits in accordance with Title 34A, Chapter 2, Workers' Compensation Act, and
406 Chapter 3, Utah Occupational Disease Act.

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

411 (3) (a) If the disability temporarily incapacitates the [servicemember] service member
412 from pursuing the [servicemember's] service member's usual business or occupation, the
413 [servicemember] service member is eligible to receive workers' compensation benefits in
414 accordance with Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah
415 Occupational Disease Act.

416 (b) For the duration of the [servicemember's] service member's inability to pursue a
417 business or occupation, the adjutant general shall provide compensation so that the total
418 compensation, including the disability compensation received under Subsection (3)(a) is
419 commensurate with the injured service member's lost pay. The adjutant general shall consider
420 lost civilian and military pay in the compensation.

421 (4) A [servicemember] service member who is permanently disabled, shall receive
422 pensions and benefits from the state that individuals under like circumstances in the Armed
423 Forces of the United States receive from the United States.

424 (5) If a [servicemember] service member dies as a result of an injury, illness, or disease
425 contracted or incurred while on state active duty or while reasonably proceeding to or returning
426 from active duty, the surviving spouse, minor children, or dependent parents of the
427 [servicemember] service member shall receive compensation as directed in Section [39A-3-203](#).

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

430 (7) The adjutant general, with the approval of the governor, shall make and publish

431 regulations to implement this section.

432 (8) Nothing in this section shall in any way limit or condition any other payment to a
433 [~~servicemember~~] service member that the law allows.

434 Section 8. Section **53B-8-102** is amended to read:

435 **53B-8-102. Definitions -- Resident student status -- Exceptions.**

436 (1) As used in this section:

437 (a) "Eligible person" means an individual who is entitled to post-secondary educational
438 benefits under Title 38 U.S.C., Veterans' Benefits.

439 (b) "Immediate family member" means an individual's spouse or dependent child.

440 (c) "Military [~~servicemember~~] service member" means an individual who:

441 (i) is serving on active duty in the United States Armed Forces within the state of Utah;

442 (ii) is a member of a reserve component of the United States Armed Forces assigned in
443 Utah;

444 (iii) is a member of the Utah National Guard; or

445 (iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned
446 outside of Utah pursuant to federal permanent change of station orders.

447 (d) "Military veteran" has the same meaning as veteran in Section [68-3-12.5](#).

448 (e) "Parent" means a student's biological or adoptive parent.

449 (2) The meaning of "resident student" is determined by reference to the general law on
450 the subject of domicile, except as provided in this section.

451 (3) (a) Institutions within the state system of higher education may grant resident
452 student status to any student who has come to Utah and established residency for the purpose of
453 attending an institution of higher education, and who, prior to registration as a resident student:

454 (i) has maintained continuous Utah residency status for one full year;

455 (ii) has signed a written declaration that the student has relinquished residency in any
456 other state; and

457 (iii) has submitted objective evidence that the student has taken overt steps to establish
458 permanent residency in Utah and that the student does not maintain a residence elsewhere.

459 (b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

460 (i) a Utah high school transcript issued in the past year confirming attendance at a Utah
461 high school in the past 12 months;

- 462 (ii) a Utah voter registration dated a reasonable period prior to application;
- 463 (iii) a Utah driver license or identification card with an original date of issue or a
464 renewal date several months prior to application;
- 465 (iv) a Utah vehicle registration dated a reasonable period prior to application;
- 466 (v) evidence of employment in Utah for a reasonable period prior to application;
- 467 (vi) proof of payment of Utah resident income taxes for the previous year;
- 468 (vii) a rental agreement showing the student's name and Utah address for at least 12
469 months prior to application; and
- 470 (viii) utility bills showing the student's name and Utah address for at least 12 months
471 prior to application.
- 472 (c) A student who is claimed as a dependent on the tax returns of a person who is not a
473 resident of Utah is not eligible to apply for resident student status.
- 474 (4) Except as provided in Subsection (8), an institution within the state system of
475 higher education may establish stricter criteria for determining resident student status.
- 476 (5) If an institution does not have a minimum credit-hour requirement, that institution
477 shall honor the decision of another institution within the state system of higher education to
478 grant a student resident student status, unless:
 - 479 (a) the student obtained resident student status under false pretenses; or
 - 480 (b) the facts existing at the time of the granting of resident student status have changed.
- 481 (6) Within the limits established in Title 53B, Chapter 8, Tuition Waiver and
482 Scholarships, each institution within the state system of higher education may, regardless of its
483 policy on obtaining resident student status, waive nonresident tuition either in whole or in part,
484 but not other fees.
- 485 (7) In addition to the waivers of nonresident tuition under Subsection (6), each
486 institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to
487 the maximum number allowed by the appropriate athletic conference as recommended by the
488 president of each institution.
- 489 (8) Notwithstanding Subsection (3), an institution within the state system of higher
490 education shall grant resident student status for tuition purposes to:
 - 491 (a) a military [~~servicemember~~] service member, if the military [~~servicemember~~] service
492 member provides:

493 (i) the military [~~servicemember's~~] service member's current United States military
494 identification card; and

495 (ii) (A) a statement from the military [~~servicemember's~~] service member's current
496 commander, or equivalent, stating that the military [~~servicemember~~] service member is
497 assigned in Utah; or

498 (B) evidence that the military [~~servicemember~~] service member is domiciled in Utah,
499 as described in Subsection (9)(a);

500 (b) a military [~~servicemember's~~] service member's immediate family member, if the
501 military [~~servicemember's~~] service member's immediate family member provides:

502 (i) (A) the military [~~servicemember's~~] service member's current United States military
503 identification card; or

504 (B) the immediate family member's current United States military identification card;
505 and

506 (ii) (A) a statement from the military [~~servicemember's~~] service member's current
507 commander, or equivalent, stating that the military [~~servicemember~~] service member is
508 assigned in Utah; or

509 (B) evidence that the military [~~servicemember~~] service member is domiciled in Utah,
510 as described in Subsection (9)(a);

511 (c) a military veteran, regardless of whether the military veteran served in Utah, if the
512 military veteran provides:

513 (i) evidence of an honorable or general discharge;

514 (ii) a signed written declaration that the military veteran has relinquished residency in
515 any other state and does not maintain a residence elsewhere;

516 (iii) objective evidence that the military veteran has demonstrated an intent to establish
517 residency in Utah, which may include any one of the following:

518 (A) a Utah voter registration card;

519 (B) a Utah driver license or identification card;

520 (C) a Utah vehicle registration;

521 (D) evidence of employment in Utah;

522 (E) a rental agreement showing the military veteran's name and Utah address; or

523 (F) utility bills showing the military veteran's name and Utah address;

- 524 (d) a military veteran's immediate family member, regardless of whether the military
525 veteran served in Utah, if the military veteran's immediate family member provides:
- 526 (i) evidence of the military veteran's honorable or general discharge;
- 527 (ii) a signed written declaration that the military veteran's immediate family member
528 has relinquished residency in any other state and does not maintain a residence elsewhere; and
- 529 (iii) objective evidence that the military veteran's immediate family member has
530 demonstrated an intent to establish residency in Utah, which may include any one of the items
531 described in Subsection (8)(c)(iii); or
- 532 (e) an eligible person who provides:
- 533 (i) evidence of eligibility under Title 38 U.S.C., Veterans' Benefits;
- 534 (ii) a signed written declaration that the eligible person will use the G.I. Bill benefits;
- 535 and
- 536 (iii) objective evidence that the eligible person has demonstrated an intent to establish
537 residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii).
- 538 (9) (a) The evidence described in Subsection (8)(a)(ii)(B) or (8)(b)(ii)(B) includes:
- 539 (i) a current Utah voter registration card;
- 540 (ii) a valid Utah driver license or identification card;
- 541 (iii) a current Utah vehicle registration;
- 542 (iv) a copy of a Utah income tax return, in the military [~~servicemember's~~] service
543 member's or military [~~servicemember's~~] service member's spouse's name, filed as a resident in
544 accordance with Section 59-10-502; or
- 545 (v) proof that the military [~~servicemember~~] service member or military
546 [~~servicemember's~~] service member's spouse owns a home in Utah, including a property tax
547 notice for property owned in Utah.
- 548 (b) Aliens who are present in the United States on visitor, student, or other visas which
549 authorize only temporary presence in this country, do not have the capacity to intend to reside
550 in Utah for an indefinite period and therefore are classified as nonresidents.
- 551 (c) Aliens who have been granted immigrant or permanent resident status in the United
552 States are classified for purposes of resident student status according to the same criteria
553 applicable to citizens.
- 554 (10) Any American Indian who is enrolled on the tribal rolls of a tribe whose

555 reservation or trust lands lie partly or wholly within Utah or whose border is at any point
556 contiguous with the border of Utah, and any American Indian who is a member of a federally
557 recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled
558 to resident student status.

559 (11) A Job Corps student is entitled to resident student status if the student:

560 (a) is admitted as a full-time, part-time, or summer school student in a program of
561 study leading to a degree or certificate; and

562 (b) submits verification that the student is a current Job Corps student.

563 (12) A person is entitled to resident student status and may immediately apply for
564 resident student status if the person:

565 (a) marries a Utah resident eligible to be a resident student under this section; and

566 (b) establishes his or her domicile in Utah as demonstrated by objective evidence as
567 provided in Subsection (3).

568 (13) Notwithstanding Subsection (3)(c), a dependent student who has at least one
569 parent who has been domiciled in Utah for at least 12 months prior to the student's application
570 is entitled to resident student status.

571 (14) (a) A person who has established domicile in Utah for full-time permanent
572 employment may rebut the presumption of a nonresident classification by providing substantial
573 evidence that the reason for the individual's move to Utah was, in good faith, based on an
574 employer requested transfer to Utah, recruitment by a Utah employer, or a comparable
575 work-related move for full-time permanent employment in Utah.

576 (b) All relevant evidence concerning the motivation for the move shall be considered,
577 including:

578 (i) the person's employment and educational history;

579 (ii) the dates when Utah employment was first considered, offered, and accepted;

580 (iii) when the person moved to Utah;

581 (iv) the dates when the person applied for admission, was admitted, and was enrolled
582 as a postsecondary student;

583 (v) whether the person applied for admission to an institution of higher education
584 sooner than four months from the date of moving to Utah;

585 (vi) evidence that the person is an independent person who is:

586 (A) at least 24 years [~~of age~~] old; or
587 (B) not claimed as a dependent on someone else's tax returns; and
588 (vii) any other factors related to abandonment of a former domicile and establishment
589 of a new domicile in Utah for purposes other than to attend an institution of higher education.

590 (15) (a) A person who is in residence in Utah to participate in a United States Olympic
591 athlete training program, at a facility in Utah, approved by the governing body for the athlete's
592 Olympic sport, shall be entitled to resident status for tuition purposes.

593 (b) Upon the termination of the athlete's participation in the training program, the
594 athlete shall be subject to the same residency standards applicable to other persons under this
595 section.

596 (c) Time spent domiciled in Utah during the Olympic athlete training program in Utah
597 counts for Utah residency for tuition purposes upon termination of the athlete's participation in
598 a Utah Olympic athlete training program.

599 (16) (a) A person who has established domicile in Utah for reasons related to divorce,
600 the death of a spouse, or long-term health care responsibilities for an immediate family
601 member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a
602 nonresident classification by providing substantial evidence that the reason for the individual's
603 move to Utah was, in good faith, based on the long-term health care responsibilities.

604 (b) All relevant evidence concerning the motivation for the move shall be considered,
605 including:

606 (i) the person's employment and educational history;

607 (ii) the dates when the long-term health care responsibilities in Utah were first
608 considered, offered, and accepted;

609 (iii) when the person moved to Utah;

610 (iv) the dates when the person applied for admission, was admitted, and was enrolled
611 as a postsecondary student;

612 (v) whether the person applied for admission to an institution of higher education
613 sooner than four months from the date of moving to Utah;

614 (vi) evidence that the person is an independent person who is:

615 (A) at least 24 years [~~of age~~] old; or

616 (B) not claimed as a dependent on someone else's tax returns; and

617 (vii) any other factors related to abandonment of a former domicile and establishment
618 of a new domicile in Utah for purposes other than to attend an institution of higher education.

619 (17) The board, after consultation with the institutions, shall make rules not
620 inconsistent with this section:

- 621 (a) concerning the definition of resident and nonresident students;
- 622 (b) establishing procedures for classifying and reclassifying students;
- 623 (c) establishing criteria for determining and judging claims of residency or domicile;
- 624 (d) establishing appeals procedures; and
- 625 (e) other matters related to this section.

626 (18) A student shall be exempt from paying the nonresident portion of total tuition if
627 the student:

- 628 (a) is a foreign national legally admitted to the United States;
- 629 (b) attended high school in this state for three or more years; and
- 630 (c) graduated from a high school in this state or received the equivalent of a high
631 school diploma in this state.

632 Section 9. Section **53G-6-306** is amended to read:

633 **53G-6-306. Permitting attendance by nonresident of the state -- Tuition.**

634 (1) As used in this section:

- 635 (a) "Armed forces" means the same as that term is defined in Section [68-3-12.5](#).
- 636 (b) "Eligible student" means a student who is a dependent child of a member of
637 uniformed services who is:

638 (i) (A) relocating to the state and does not reside in the state during an LEA's
639 enrollment period; or

640 (B) relocating out of the state during the school year; and

641 (ii) on permanent change of station orders.

642 (c) "Nonresident child" means a child residing outside the state.

643 (d) "Provisional enrollment" means enrollment in a public school by an eligible
644 student:

645 (i) before the eligible student relocates to the state; or

646 (ii) after the eligible student's parent relocates out of the state, but before the eligible
647 student relocates out of the state.

648 (e) "Uniformed services" means:

649 (i) the same as that term is defined in Section 68-3-12.5;

650 (ii) the reserve components of the armed forces; and

651 (iii) the national guard of a state.

652 (2) (a) An LEA may permit a nonresident child to attend school within the district,
653 giving priority to a child of a military [~~servicemember~~] service member, as that term is defined
654 in Section 53B-8-102.

655 (b) With the exception of a child enrolled under Section 53G-6-707, a nonresident
656 child is not included for the purpose of apportionment of state funds.

657 (3) (a) An LEA shall charge a nonresident child who enrolls in a school within the
658 LEA tuition in an amount at least equal to the per capita cost of the school program in which
659 the nonresident child enrolls unless the LEA, in open meeting, determines to waive the charge
660 for that nonresident child in whole or in part.

661 (b) The official minutes of the meeting described in Subsection (3)(a) shall reflect the
662 LEA's determination to waive the charge described in Subsection (3)(a).

663 (4) (a) Notwithstanding anything to the contrary in Subsection (3), an LEA shall allow
664 an eligible student to:

665 (i) provisionally enroll in a public school in the LEA at the same time and in the same
666 manner as individuals who reside in the state; or

667 (ii) provisionally enroll in virtual education options that the LEA provides in the same
668 manner as an individual residing in the state.

669 (b) An LEA may not require proof of residency from an eligible student at the time the
670 eligible student applies to enroll in a public school in the LEA.

671 (c) An LEA shall require proof of residence within 10 days after the eligible student's
672 first day of residence in the state.

673 Section 10. Section 53G-6-402 is amended to read:

674 **53G-6-402. Open enrollment options -- Procedures -- Processing fee -- Continuing**
675 **enrollment.**

676 (1) Each local school board is responsible for providing educational services consistent
677 with Utah state law and rules of the state board for each student who resides in the district and,
678 as provided in this section through Section 53G-6-407 and to the extent reasonably feasible, for

679 any student who resides in another district in the state and desires to attend a school in the
680 district, giving priority to a child of a military [~~servicemember~~] service member, as that term is
681 defined in [53B-8-102](#).

682 (2) (a) A school is open for enrollment of nonresident students if the enrollment level
683 is at or below the open enrollment threshold.

684 (b) If a school's enrollment falls below the open enrollment threshold, the local school
685 board shall allow a nonresident student to enroll in the school.

686 (3) A local school board may allow enrollment of nonresident students in a school that
687 is operating above the open enrollment threshold.

688 (4) (a) A local school board shall adopt policies describing procedures for nonresident
689 students to follow in applying for entry into the district's schools.

690 (b) Those procedures shall provide, as a minimum, for:

691 (i) distribution to interested parties of information about the school or school district
692 and how to apply for admission;

693 (ii) use of standard application forms prescribed by the state board;

694 (iii) (A) submission of applications from November 15 through the first Friday in
695 February by those seeking admission during the early enrollment period for the following year;
696 or

697 (B) submission of applications from August 1 through November 1 by those seeking
698 admission during the early enrollment period for the following year in a school district
699 described in Subsection [53G-6-401\(1\)\(b\)](#);

700 (iv) submission of applications by those seeking admission during the late enrollment
701 period;

702 (v) written notification to the student's parent of acceptance or rejection of an
703 application:

704 (A) within six weeks after receipt of the application by the district or by March 31,
705 whichever is later, for applications submitted during the early enrollment period;

706 (B) within two weeks after receipt of the application by the district or by the Friday
707 before the new school year begins, whichever is later, for applications submitted during the late
708 enrollment period for admission in the next school year; and

709 (C) within two weeks after receipt of the application by the district, for applications

710 submitted during the late enrollment period for admission in the current year;

711 (vi) written notification to the resident school for intradistrict transfers or the resident
712 district for interdistrict transfers upon acceptance of a nonresident student for enrollment; and

713 (vii) written notification to the parents of each student that resides within the school
714 district and other interested parties of the revised early enrollment period described in
715 Subsection 53G-6-401(1)(b) if:

716 (A) the school district is doing a district wide grade reconfiguration of its elementary,
717 middle, junior, and senior high schools; and

718 (B) the grade reconfiguration described in Subsection (4)(b)(vii)(A) will be
719 implemented in the next school year.

720 (c) (i) Notwithstanding the dates established in Subsection (4)(b) for submitting
721 applications and notifying parents of acceptance or rejection of an application, a local school
722 board may delay the dates if a local school board is not able to make a reasonably accurate
723 projection of the early enrollment school capacity or late enrollment school capacity of a school
724 due to:

725 (A) school construction or remodeling;

726 (B) drawing or revision of school boundaries; or

727 (C) other circumstances beyond the control of the local school board.

728 (ii) The delay may extend no later than four weeks beyond the date the local school
729 board is able to make a reasonably accurate projection of the early enrollment school capacity
730 or late enrollment school capacity of a school.

731 (5) A school district may charge a one-time \$5 processing fee, to be paid at the time of
732 application.

733 (6) An enrolled nonresident student shall be permitted to remain enrolled in a school,
734 subject to the same rules and standards as resident students, without renewed applications in
735 subsequent years unless one of the following occurs:

736 (a) the student graduates;

737 (b) the student is no longer a Utah resident;

738 (c) the student is suspended or expelled from school; or

739 (d) except for a student described in Subsection (6)(e), the district determines that
740 enrollment within the school will exceed the school's open enrollment threshold; or

741 (e) for a child of a military [~~servicemember~~] service member, as that term is defined in
742 Section 53B-8-102, who moves from temporary to permanent housing outside of the relevant
743 school district boundaries following a permanent change of station:

744 (i) in kindergarten through grade 10, the student completes the current school year; or

745 (ii) in grades 11 and 12, the student graduates.

746 (7) (a) Determination of which nonresident students will be excluded from continued
747 enrollment in a school during a subsequent year under Subsection (6)(d) is based upon time in
748 the school, with those most recently enrolled being excluded first and the use of a lottery
749 system when multiple nonresident students have the same number of school days in the school.

750 (b) Nonresident students who will not be permitted to continue their enrollment shall
751 be notified no later than March 15 of the current school year.

752 (8) The parent of a student enrolled in a school that is not the student's school of
753 residence may withdraw the student from that school for enrollment in another public school by
754 submitting notice of intent to enroll the student in:

755 (a) the district of residence; or

756 (b) another nonresident district.

757 (9) Unless provisions have previously been made for enrollment in another school, a
758 nonresident district releasing a student from enrollment shall immediately notify the district of
759 residence, which shall enroll the student in the resident district and take such additional steps
760 as may be necessary to ensure compliance with laws governing school attendance.

761 (10) (a) Except as provided in Subsection (10)(c), a student who transfers between
762 schools, whether effective on the first day of the school year or after the school year has begun,
763 by exercising an open enrollment option under this section may not transfer to a different
764 school during the same school year by exercising an open enrollment option under this section.

765 (b) The restriction on transfers specified in Subsection (10)(a) does not apply to a
766 student transfer made for health or safety reasons.

767 (c) A local school board may adopt a policy allowing a student to exercise an open
768 enrollment option more than once in a school year.

769 (11) Notwithstanding Subsections (2) and (6)(d), a student who is enrolled in a school
770 that is not the student's school of residence, because school bus service is not provided between
771 the student's neighborhood and school of residence for safety reasons:

772 (a) shall be allowed to continue to attend the school until the student finishes the
773 highest grade level offered; and

774 (b) shall be allowed to attend the middle school, junior high school, or high school into
775 which the school's students feed until the student graduates from high school.

776 (12) Notwithstanding any other provision of this part or Part 3, School District
777 Residency, a student shall be allowed to enroll in any charter school or other public school in
778 any district, including a district where the student does not reside, if the enrollment is
779 necessary, as determined by the Division of Child and Family Services, to comply with the
780 provisions of 42 U.S.C. Section 675.

781 Section 11. Section **53G-6-502** is amended to read:

782 **53G-6-502. Eligible students.**

783 (1) As used in this section:

784 (a) "At capacity" means operating above the school's open enrollment threshold.

785 (b) "COVID-19 emergency" means the spread of COVID-19 that the World Health
786 Organization declared a pandemic on March 11, 2020.

787 (c) "Open enrollment threshold" means the same as that term is defined in Section
788 **53G-6-401**.

789 (d) "Refugee" means a person who is eligible to receive benefits and services from the
790 federal Office of Refugee Resettlement.

791 (e) "School of residence" means the same as that term is defined in Section **53G-6-401**.

792 (2) All resident students of the state qualify for admission to a charter school, subject
793 to the limitations set forth in this section and Section **53G-6-503**.

794 (3) (a) A charter school shall enroll:

795 (i) a foster child residing in the same residence as an individual who is enrolled in the
796 charter school; and

797 (ii) an eligible student other than a child described in Subsection (3)(a)(i) who submits
798 a timely application, unless the number of applications exceeds the capacity of a program,
799 class, grade level, or the charter school.

800 (b) If the number of applications described in Subsection (3)(a)(ii) exceeds the capacity
801 of a program, class, grade level, or the charter school, the charter school shall select students on
802 a random basis, except as provided in Subsections (4) through (8).

- 803 (4) A charter school may give an enrollment preference to:
- 804 (a) a child or grandchild of an individual who has actively participated in the
805 development of the charter school;
- 806 (b) a child or grandchild of a member of the charter school governing board;
- 807 (c) a sibling of an individual who was previously or is presently enrolled in the charter
808 school;
- 809 (d) a child of an employee of the charter school;
- 810 (e) a student articulating between charter schools offering similar programs that are
811 governed by the same charter school governing board;
- 812 (f) a student articulating from one charter school to another pursuant to an articulation
813 agreement between the charter schools that is approved by the State Charter School Board;
- 814 (g) an individual seeking enrollment in a charter school if:
- 815 (i) the individual's sibling is a student enrolled in a charter school; and
- 816 (ii) the charter school where the individual is seeking enrollment has an articulation
817 agreement with the charter school where the sibling is enrolled that the State Charter School
818 Board approves;
- 819 (h) a student who resides within up to a two-mile radius of the charter school and
820 whose school of residence is at capacity;
- 821 (i) a child of a military [~~servicemember~~] service member as defined in Section
822 [53B-8-102](#); or
- 823 (j) for the 2022-2023 school year, a student who withdraws from the charter school to
824 attend an online school or home school for the 2020-2021 or 2021-2022 school years due to the
825 COVID-19 emergency.
- 826 (5) (a) Except as provided in Subsection (5)(b), and notwithstanding Subsection (4)(h),
827 a charter school that is approved by the state board after May 13, 2014, and is located in a high
828 growth area as defined in Section [53G-6-504](#) shall give an enrollment preference to a student
829 who resides within a two-mile radius of the charter school.
- 830 (b) The requirement to give an enrollment preference under Subsection (5)(a) does not
831 apply to a charter school that was approved without a high priority status pursuant to
832 Subsection [53G-6-504\(7\)\(b\)](#).
- 833 (6) If a district school converts to charter status, the charter school shall give an

834 enrollment preference to students who would have otherwise attended it as a district school.

835 (7) (a) A charter school whose mission is to enhance learning opportunities for
836 refugees or children of refugee families may give an enrollment preference to refugees or
837 children of refugee families.

838 (b) A charter school whose mission is to enhance learning opportunities for English
839 language learners may give an enrollment preference to English language learners.

840 (8) A charter school may weight the charter school's lottery to give a slightly better
841 chance of admission to educationally disadvantaged students, including:

- 842 (a) low-income students;
- 843 (b) students with disabilities;
- 844 (c) English language learners;
- 845 (d) migrant students;
- 846 (e) neglected or delinquent students; and
- 847 (f) homeless students.

848 (9) A charter school may not discriminate in the charter school's admission policies or
849 practices on the same basis as other public schools may not discriminate in admission policies
850 and practices.

851 Section 12. Section **59-10-103** is amended to read:

852 **59-10-103. Definitions.**

853 (1) As used in this chapter:

854 (a) (i) "Adjusted gross income":

855 (A) for a resident or nonresident individual, means the same as that term is defined in
856 Section 62, Internal Revenue Code; or

857 (B) for a resident or nonresident estate or trust, is as calculated in Section 67(e),
858 Internal Revenue Code.

859 (ii) "Adjusted gross income" does not include:

860 (A) income received from a loan forgiven in accordance with 15 U.S.C. Sec. 636(a)
861 (36), to the extent that a deduction for the expenditures paid with the loan is disallowed, or a
862 similar paycheck protection loan that is authorized by the federal government, provided in
863 response to COVID-19, forgiven if the borrower meets the expenditure requirements, and
864 exempt from federal income tax, to the extent that a deduction for the expenditures paid with

865 the loan is disallowed; or

866 (B) an amount that an individual receives in accordance with Section 6428, Internal
867 Revenue Code, or an amount that an individual receives that is authorized by the federal
868 government as a tax credit for the 2020 tax year, provided in response to COVID-19, paid in
869 advance of the filing of the individual's 2020 federal income tax return, and exempt from
870 federal income tax.

871 (b) "Corporation" includes:

872 (i) an association;

873 (ii) a joint stock company; and

874 (iii) an insurance company.

875 (c) "COVID-19" means:

876 (i) the severe acute respiratory syndrome coronavirus 2; or

877 (ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

878 (d) "Distributable net income" means the same as that term is defined in Section 643,
879 Internal Revenue Code.

880 (e) "Employee" means the same as that term is defined in Section 59-10-401.

881 (f) "Employer" means the same as that term is defined in Section 59-10-401.

882 (g) "Federal taxable income":

883 (i) for a resident or nonresident individual, means taxable income as defined by Section
884 63, Internal Revenue Code; or

885 (ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and
886 (b), Internal Revenue Code.

887 (h) "Fiduciary" means:

888 (i) a guardian;

889 (ii) a trustee;

890 (iii) an executor;

891 (iv) an administrator;

892 (v) a receiver;

893 (vi) a conservator; or

894 (vii) any person acting in any fiduciary capacity for any individual.

895 (i) "Guaranteed annuity interest" means the same as that term is defined in 26 C.F.R.

896 Sec. 1.170A-6(c)(2).

897 (j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the
898 homesteaded land that was held to have been diminished from the Uintah and Ouray
899 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).

900 (k) "Individual" means a natural person and includes aliens and minors.

901 (l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all
902 or part of the trust without the consent of a person who has a substantial beneficial interest in
903 the trust and the interest would be adversely affected by the exercise of the settlor's power to
904 revoke or terminate all or part of the trust.

905 (m) "Military service" means the same as that term is defined in Pub. L. No. 108-189,
906 Sec. 101.

907 (n) "Nonresident individual" means an individual who is not a resident of this state.

908 (o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a
909 resident estate or trust.

910 (p) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other
911 unincorporated organization:

912 (A) through or by means of which any business, financial operation, or venture is
913 carried on; and

914 (B) that is not, within the meaning of this chapter, a trust, an estate, or a corporation.

915 (ii) "Partnership" does not include any organization not included under the definition of
916 "partnership" in Section 761, Internal Revenue Code.

917 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or
918 organization described in Subsection (1)(p)(i).

919 (q) "Pass-through entity" means the same as that term is defined in Section
920 59-10-1402.

921 (r) "Pass-through entity taxpayer" means the same as that term is defined in Section
922 59-10-1402.

923 (s) "Qualified nongrantor charitable lead trust" means a trust:

924 (i) that is irrevocable;

925 (ii) that has a trust term measured by:

926 (A) a fixed term of years; or

- 927 (B) the life of a person living on the day on which the trust is created;
- 928 (iii) under which:
- 929 (A) a portion of the value of the trust assets is distributed during the trust term:
- 930 (I) to an organization described in Section 170(c), Internal Revenue Code; and
- 931 (II) as a guaranteed annuity interest or a unitrust interest; and
- 932 (B) assets remaining in the trust at the termination of the trust term are distributed to a
- 933 beneficiary:
- 934 (I) designated in the trust; and
- 935 (II) that is not an organization described in Section 170(c), Internal Revenue Code;
- 936 (iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue
- 937 Code; and
- 938 (v) under which the grantor of the trust is not treated as the owner of any portion of the
- 939 trust for federal income tax purposes.
- 940 (t) "Resident individual" means an individual who is domiciled in this state for any
- 941 period of time during the taxable year, but only for the duration of the period during which the
- 942 individual is domiciled in this state.
- 943 (u) "Resident estate" or "resident trust" means the same as that term is defined in
- 944 Section [75-7-103](#).
- 945 (v) "[~~Servicemember~~] Service member" means the same as that term is defined in Pub.
- 946 L. No. 108-189, Sec. 101.
- 947 (w) "State income tax percentage for a nonresident estate or trust" means a percentage
- 948 equal to a nonresident estate's or trust's state taxable income for the taxable year divided by the
- 949 nonresident estate's or trust's total adjusted gross income for that taxable year after making the
- 950 adjustments required by:
- 951 (i) Section [59-10-202](#);
- 952 (ii) Section [59-10-207](#);
- 953 (iii) Section [59-10-209.1](#); or
- 954 (iv) Section [59-10-210](#).
- 955 (x) "State income tax percentage for a nonresident individual" means a percentage
- 956 equal to a nonresident individual's state taxable income for the taxable year divided by the
- 957 difference between:

958 (i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross
959 income for that taxable year, after making the:

960 (A) additions and subtractions required by Section 59-10-114; and

961 (B) adjustments required by Section 59-10-115; and

962 (ii) if the nonresident individual described in Subsection (1)(x)(i) is a [servicemember]
963 service member, the compensation the [servicemember] service member receives for military
964 service if the [servicemember] service member is serving in compliance with military orders.

965 (y) "State income tax percentage for a part-year resident individual" means, for a
966 taxable year, a fraction:

967 (i) the numerator of which is the sum of:

968 (A) subject to Section 59-10-1404.5, for the time period during the taxable year that the
969 part-year resident individual is a resident, the part-year resident individual's total adjusted gross
970 income for that time period, after making the:

971 (I) additions and subtractions required by Section 59-10-114; and

972 (II) adjustments required by Section 59-10-115; and

973 (B) for the time period during the taxable year that the part-year resident individual is a
974 nonresident, an amount calculated by:

975 (I) determining the part-year resident individual's adjusted gross income for that time
976 period, after making the:

977 (Aa) additions and subtractions required by Section 59-10-114; and

978 (Bb) adjustments required by Section 59-10-115; and

979 (II) calculating the portion of the amount determined under Subsection (1)(y)(i)(B)(I)
980 that is derived from Utah sources in accordance with Section 59-10-117; and

981 (ii) the denominator of which is the difference between:

982 (A) the part-year resident individual's total adjusted gross income for that taxable year,
983 after making the:

984 (I) additions and subtractions required by Section 59-10-114; and

985 (II) adjustments required by Section 59-10-115; and

986 (B) if the part-year resident individual is a [servicemember] service member, any
987 compensation the [servicemember] service member receives for military service during the
988 portion of the taxable year that the [servicemember] service member is a nonresident if the

989 [~~servicemember~~] service member is serving in compliance with military orders.

990 (z) "Taxable income" or "state taxable income":

991 (i) subject to Section 59-10-1404.5, for a resident individual, means the resident
992 individual's adjusted gross income after making the:

993 (A) additions and subtractions required by Section 59-10-114; and

994 (B) adjustments required by Section 59-10-115;

995 (ii) for a nonresident individual, is an amount calculated by:

996 (A) determining the nonresident individual's adjusted gross income for the taxable
997 year, after making the:

998 (I) additions and subtractions required by Section 59-10-114; and

999 (II) adjustments required by Section 59-10-115; and

1000 (B) calculating the portion of the amount determined under Subsection (1)(z)(ii)(A)
1001 that is derived from Utah sources in accordance with Section 59-10-117;

1002 (iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and

1003 (iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.

1004 (aa) "Taxpayer" means any of the following that has income subject in whole or part to
1005 the tax imposed by this chapter:

1006 (i) an individual;

1007 (ii) an estate, a trust, or a beneficiary of an estate or a trust that is not a pass-through
1008 entity or a pass-through entity taxpayer;

1009 (iii) a pass-through entity; or

1010 (iv) a pass-through entity taxpayer.

1011 (bb) "Trust term" means a time period:

1012 (i) beginning on the day on which a qualified nongrantor charitable lead trust is
1013 created; and

1014 (ii) ending on the day on which the qualified nongrantor charitable lead trust described
1015 in Subsection (1)(bb)(i) terminates.

1016 (cc) "Uintah and Ouray Reservation" means the lands recognized as being included
1017 within the Uintah and Ouray Reservation in:

1018 (i) Hagen v. Utah, 510 U.S. 399 (1994); and

1019 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).

1020 (dd) "Unadjusted income" means an amount equal to the difference between:
1021 (i) the total income required to be reported by a resident or nonresident estate or trust
1022 on the resident or nonresident estate's or trust's federal income tax return for estates and trusts
1023 for the taxable year; and
1024 (ii) the sum of the following:
1025 (A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:
1026 (I) for administering the resident or nonresident estate or trust; and
1027 (II) that the resident or nonresident estate or trust deducts as allowed on the resident or
1028 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
1029 year;
1030 (B) the income distribution deduction that a resident or nonresident estate or trust
1031 deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or
1032 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
1033 year;
1034 (C) the amount that a resident or nonresident estate or trust deducts as a deduction for
1035 estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as
1036 allowed on the resident or nonresident estate's or trust's federal income tax return for estates
1037 and trusts for the taxable year; and
1038 (D) the amount that a resident or nonresident estate or trust deducts as a personal
1039 exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or
1040 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
1041 year.
1042 (ee) "Unitrust interest" means the same as that term is defined in 26 C.F.R. Sec.
1043 1.170A-6(c)(2).
1044 (ff) "Ute tribal member" means an individual who is enrolled as a member of the Ute
1045 Indian Tribe of the Uintah and Ouray Reservation.
1046 (gg) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.
1047 (hh) "Wages" means the same as that term is defined in Section 59-10-401.
1048 (2) (a) Any term used in this chapter has the same meaning as when used in
1049 comparable context in the laws of the United States relating to federal income taxes unless a
1050 different meaning is clearly required.

1051 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall
 1052 mean the Internal Revenue Code or other provisions of the laws of the United States relating to
 1053 federal income taxes that are in effect for the taxable year.

1054 (c) Any reference to a specific section of the Internal Revenue Code or other provision
 1055 of the laws of the United States relating to federal income taxes shall include any
 1056 corresponding or comparable provisions of the Internal Revenue Code as amended,
 1057 redesignated, or reenacted.

1058 Section 13. Section **71A-1-101**, which is renumbered from Section 71-8-1 is
 1059 renumbered and amended to read:

1060 **TITLE 71A. VETERANS AND MILITARY AFFAIRS**

1061 **CHAPTER 1. VETERANS AND MILITARY AFFAIRS**

1062 **Part 1. General Provisions**

1063 ~~[71-8-1].~~ **71A-1-101. Veterans and Military Affairs -- Definitions.**

1064 As used in this title:

1065 (1) "Armed forces" means the same as that term is defined in Section [68-3-12.5](#)

1066 (2) "Contractor" means a person who is or may be awarded a government entity
 1067 contract.

1068 ~~[(2)]~~ (3) "Council" means the Veterans Advisory Council.

1069 ~~[(3)]~~ (4) "Department" means the Department of Veterans and Military Affairs.

1070 ~~[(4)]~~ (5) "Executive director" means the executive director of the Department of
 1071 Veterans and Military Affairs.

1072 ~~[(5)]~~ (6) "Government entity" means the state and any county, municipality, local
 1073 district, special service district, and any other political subdivision or administrative unit of the
 1074 state, including state institutions of education.

1075 (7) "Service member" means a currently serving member of the armed forces.

1076 ~~[(6)]~~ "Specialist" means a full-time employee of a government entity who is tasked with
 1077 responding to, and assisting, veterans who are employed by the entity or come to the entity for
 1078 assistance.]

1079 ~~[(7)]~~ (8) "Uniformed services" means the same as that term is defined in Section
 1080 [68-3-12.5](#).

1081 (9) "VA" means the United States Department of Veterans Affairs.

1082 (10) "Veteran" [has] means the same [meaning] as that term is defined in Section
1083 68-3-12.5.

1084 (11) "Veterans service organization" means an organization or individual accredited by
1085 the VA Office of General Counsel or recognized by the department whose purpose is to serve
1086 service members and veterans, their spouses, surviving spouses, and children.

1087 Section 14. Section **71A-1-201** is enacted to read:

1088 **Part 2. Department of Veterans and Military Affairs**

1089 **71A-1-201. Department of Veterans and Military Affairs -- Creation --**

1090 **Appointment of executive director -- Department responsibilities.**

1091 (1) There is created the Department of Veterans and Military Affairs.

1092 (2) The governor shall appoint an executive director for the department who is subject
1093 to Senate confirmation.

1094 (3) The executive director shall be a veteran.

1095 (4) The department shall:

1096 (a) conduct and supervise all veteran and military affairs activities as provided in this
1097 title;

1098 (b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative
1099 Rulemaking Act, to carry out the provisions of this title;

1100 (c) in accordance with Section [41-1a-418](#):

1101 (i) determine which campaign or combat theater awards are eligible for a special group
1102 license plate;

1103 (ii) verify that an applicant for a campaign or combat theater award special group
1104 license plate is qualified to receive it; and

1105 (iii) provide an applicant that qualifies a form indicating the campaign or combat
1106 theater award special group license plate for which the applicant qualifies;

1107 (d) maintain liaison with local, state, and federal veterans agencies and with Utah
1108 veterans organizations;

1109 (e) provide current information to veterans, service members, their surviving spouses
1110 and family members, and Utah veterans and military organizations on benefits they are entitled
1111 to;

1112 (f) assist veterans, service members, and their families in applying for benefits and

- 1113 services;
- 1114 (g) cooperate with other state entities in the receipt of information to create and
- 1115 maintain a record of veterans in Utah;
- 1116 (h) create and administer a veterans assistance registry in accordance with Chapter 5,
- 1117 Veterans Assistance Registry, with recommendations from the council, that provides contact
- 1118 information to the qualified donors of materials and labor for certain qualified recipients;
- 1119 (i) identify military-related issues, challenges, and opportunities, and develop plans for
- 1120 addressing them;
- 1121 (j) develop, coordinate, and maintain relationships with military leaders of Utah
- 1122 military installations, including the Utah National Guard; and
- 1123 (k) develop and maintain relationships with military-related organizations in Utah.
- 1124 (5) (a) The department may award grants for the purpose of supporting veteran and
- 1125 military outreach, employment, education, healthcare, homelessness prevention, and
- 1126 recognition events.
- 1127 (b) The department may award a grant described in Subsection (4)(a) to:
- 1128 (i) an institution of higher education listed in Section [53B-1-102](#);
- 1129 (ii) a nonprofit organization involved in veterans or military-related activities; or
- 1130 (iii) a political subdivision of the state.
- 1131 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1132 department shall make rules for the administration of grants, including establishing:
- 1133 (i) the form and process for submitting an application to the department;
- 1134 (ii) the method and criteria for selecting a grant recipient;
- 1135 (iii) the method and formula for determining a grant amount; and
- 1136 (iv) the reporting requirements of a grant recipient.
- 1137 (6) Nothing in this chapter shall be construed as altering or preempting any provisions
- 1138 of Title 39A, National Guard and Militia Act, as specifically related to the Utah National
- 1139 Guard.
- 1140 Section 15. Section **71A-1-202** is enacted to read:
- 1141 **71A-1-202. Department of Veterans and Military Affairs -- Executive director --**
- 1142 **Responsibilities.**
- 1143 (1) The executive director is the chief administrative officer of the department.

- 1144 (2) The executive director is responsible for:
1145 (a) the administration and supervision of the department;
1146 (b) the coordination of policies and program activities conducted through the
1147 department;
1148 (c) the development and approval of the proposed budget of the department;
1149 (d) preparing an annual report for presentation not later than November 30 of each year
1150 to the Government Operations Interim Committee which covers:
1151 (i) services provided to veterans, service members, and their families;
1152 (ii) services provided by third parties through the Veterans Assistance Registry;
1153 (iii) coordination of veterans services by government entities with the department; and
1154 (iv) the status of military missions within the state;
1155 (e) advising the governor on matters pertaining to veterans and military affairs
1156 throughout the state, including active duty service members, reserve duty service members,
1157 veterans, and their families;
1158 (f) developing, coordinating, and maintaining relationships with Utah's congressional
1159 delegation and appropriate federal agencies; and
1160 (g) entering into grants, contracts, agreements, and interagency transfers necessary to
1161 support the department's programs.
1162 (3) The executive director may appoint deputy directors to assist the executive director
1163 in carrying out the department's responsibilities.

1164 Section 16. Section **71A-1-301**, which is renumbered from Section 71-8-4 is
1165 renumbered and amended to read:

1166 **Part 3. Veterans Advisory Council**

1167 **~~[71-8-4].~~ 71A-1-301. Veterans Advisory Council -- Membership -- Duties and**
1168 **responsibilities -- Per diem and travel expenses.**

1169 (1) There is created a Veterans Advisory Council whose purpose is to advise the
1170 executive director of the Department of Veterans and Military Affairs on issues relating to
1171 veterans.

1172 (2) The council shall consist of the following 14 members:

1173 (a) 11 voting members to serve four-year terms:

1174 (i) seven veterans at large appointed by the governor;

1175 (ii) the commander or the commander's designee, whose terms shall last for as long as
1176 ~~[they hold]~~ the commander holds that office, from each of the following organizations:

1177 (A) Veterans of Foreign Wars;

1178 (B) American Legion; and

1179 (C) Disabled American Veterans; and

1180 (iii) a representative from the Office of the Governor; and

1181 (b) three nonvoting members:

1182 (i) the executive director ~~[of the Department of Veterans and Military Affairs];~~

1183 (ii) the director of the VA Health Care System or ~~[his]~~ the director's designee; and

1184 (iii) the director of the VA Benefits Administration Regional Office in Salt Lake City,
1185 or ~~[his]~~ the director's designee.

1186 (3) (a) Except as required by Subsection (3)(b), as terms of current council members
1187 expire, the governor shall appoint each new or reappointed member to a four-year term
1188 commencing on July 1.

1189 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
1190 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1191 council members are staggered so that approximately half of the members appointed by the
1192 governor are appointed every two years.

1193 (4) When a vacancy occurs in the membership for any reason, the governor shall
1194 appoint a replacement for the unexpired term within 60 days of receiving notice.

1195 (5) Members appointed by the governor may not serve more than three consecutive
1196 terms.

1197 (6) (a) Any veterans group or veteran may provide the executive director with a list of
1198 recommendations for members on the council.

1199 (b) The executive director shall provide the governor with the list of recommendations
1200 for members to be appointed to the council.

1201 (c) The governor shall make final appointments to the council by June 30 of any year in
1202 which appointments are to be made under this chapter.

1203 (7) The council shall elect a chair and vice chair from among the council members
1204 every two years. The chair and vice chair shall each be ~~[an individual who:]~~ a veteran.

1205 ~~[(a) has served on active duty in the armed forces for more than 180 consecutive days;]~~

1206 ~~[(b) was a member of a reserve component who served in a campaign or expedition for~~
1207 ~~which a campaign medal has been authorized; or]~~

1208 ~~[(c) incurred an actual service-related injury or disability in the line of duty, whether or~~
1209 ~~not that person completed 180 consecutive days of active duty; and]~~

1210 ~~[(d) was separated or retired under honorable conditions.]~~

1211 (8) (a) The council shall meet at least once every quarter.

1212 (b) The executive director ~~[of the Department of Veterans and Military Affairs]~~ may
1213 convene additional meetings, as necessary.

1214 (9) The department shall provide staff to the council.

1215 (10) Six voting members are a quorum for the transaction of business.

1216 ~~[(11) The council shall:]~~

1217 ~~[(a) solicit input concerning veterans issues from veterans' groups throughout the~~
1218 ~~state;]~~

1219 ~~[(b) report issues received to the executive director of the Department of Veterans and~~
1220 ~~Military Affairs and make recommendations concerning them;]~~

1221 ~~[(c) keep abreast of federal developments that affect veterans locally and advise the~~
1222 ~~executive director of them;]~~

1223 ~~[(d) approve, by a majority vote, the use of money generated from veterans license~~
1224 ~~plates under Section ~~41-1a-422~~ for veterans programs; and]~~

1225 ~~[(e) assist the director in developing guidelines and qualifications for:]~~

1226 ~~[(i) participation by donors and recipients in the Veterans Assistance Registry created~~
1227 ~~in Section ~~71-12-101~~; and]~~

1228 ~~[(ii) developing a process for providing contact information between qualified donors~~
1229 ~~and recipients.]~~

1230 ~~[(12)]~~ (11) A member may not receive compensation or benefits for the member's
1231 service, but may receive per diem and travel expenses in accordance with:

1232 (a) Section [63A-3-106](#);

1233 (b) Section [63A-3-107](#); and

1234 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
1235 [63A-3-107](#).

1236 Section 17. Section [71A-1-302](#) is enacted to read:

1237 71A-1-302. Veterans Advisory Council -- Duties and responsibilities.

1238 The council shall:

1239 (1) solicit input concerning veterans issues from veterans groups throughout the state;

1240 (2) report issues received to the executive director and make recommendations

1241 concerning them;

1242 (3) keep abreast of federal developments that affect veterans locally and advise the

1243 executive director of them;

1244 (4) approve, by a majority vote, the use of money generated from veterans license

1245 plates under Section 41-1a-422 for veterans programs; and

1246 (5) assist the director in developing guidelines and qualifications for:

1247 (a) participation by donors and recipients in the Veterans Assistance Registry created in

1248 Section 71A-5-102; and

1249 (b) the process for providing contact information between qualified donors and

1250 recipients.

1251 Section 18. Section **71A-2-101**, which is renumbered from Section 71-10-1 is

1252 renumbered and amended to read:

1253 **CHAPTER 2. VETERANS PREFERENCE**

1254 ~~[71-10-1].~~ **71A-2-101. Veterans preference -- Definitions.**

1255 (1) As used in this chapter:

1256 ~~[(1) "Active duty" means active military duty and does not include active duty for~~

1257 ~~training, initial active duty for training, or inactive duty for training.]~~

1258 ~~[(2)]~~ (a) "Government entity" means the state, any county, municipality, local district,

1259 special service district, or any other political subdivision or administrative unit of the state,

1260 including state institutions of education.

1261 (b) "Individual with a disability" means a veteran or service member who has

1262 established the existence of a service-connected disability or is receiving compensation,

1263 disability retirement benefits, or a pension because of a public statute administered by the VA

1264 or a military department.

1265 ~~[(3)]~~ (c) "Preference eligible" means:

1266 ~~[(a)]~~ (i) any individual who [has served on active duty in the armed forces for more

1267 than 180 consecutive days, or was a member of a reserve component who served in a campaign

1268 ~~or expedition for which a campaign medal has been authorized and who has been separated~~
1269 ~~under honorable conditions]~~ is a veteran or service member;

1270 ~~[(b)]~~ (ii) ~~[a veteran]~~ an individual with a disability, regardless of the percentage of
1271 disability;

1272 ~~[(c)]~~ (iii) the spouse or ~~[unmarried widow or widower]~~ surviving spouse of a veteran;

1273 ~~[(d)]~~ (iv) a purple heart recipient; or

1274 ~~[(e)]~~ (v) a retired member of the armed forces.

1275 ~~[(4) "Veteran" means the same as that term is defined in Section 68-3-12.5.]~~

1276 ~~[(5) "Veteran with a disability" means an individual who has:]~~

1277 ~~[(a) been separated or retired from the armed forces under honorable conditions; and]~~

1278 ~~[(b) established the existence of a service-connected disability or is receiving~~
1279 ~~compensation, disability retirement benefits, or pension because of a public statute~~

1280 ~~administered by the federal Department of Veterans Affairs or a military department.]~~

1281 (2) Terms defined in Section 71A-1-101 apply to this chapter.

1282 Section 19. Section **71A-2-102**, which is renumbered from Section 71-10-2 is
1283 renumbered and amended to read:

1284 ~~[71-10-2].~~ **71A-2-102. Veterans preference.**

1285 (1) Each government entity shall grant a veterans preference upon initial ~~[hiring]~~
1286 application to each preference eligible ~~[veteran or preference eligible spouse]~~ individual
1287 according to the procedures and requirements of this chapter.

1288 (2) The personnel or human resource officer of any government entity shall add to the
1289 score of a preference eligible who receives a passing score on an examination, or any rating or
1290 ranking mechanism used in selecting an individual for any career service position with the
1291 government entity:

1292 (a) 5% of the total possible score, if the preference eligible is a veteran or service
1293 member;

1294 (b) 10% of the total possible score, if the preference eligible is a veteran or service
1295 member with a disability or a purple heart recipient; or

1296 (c) in the case of a preference eligible spouse~~[-widow, or widower]~~ or surviving
1297 spouse, the same percentage the qualifying veteran or service member is, or would have been,
1298 entitled to.

1299 (3) A preference eligible who applies for a position that does not require an
 1300 examination, or where examination results are other than a numeric score, shall be given
 1301 preference in interviewing [~~and hiring~~] for the position.

1302 (4) Preference eligibility shall be added to a minimum of one step in the process.

1303 (5) The granting of a veterans preference by a government entity in accordance with
 1304 this chapter is not a violation of:

1305 (a) Title 34A, Chapter 5, Utah Antidiscrimination Act; or

1306 (b) any other state or local equal employment opportunity law.

1307 Section 20. Section **71A-2-103**, which is renumbered from Section 71-10-3 is
 1308 renumbered and amended to read:

1309 ~~[71-10-3].~~ **71A-2-103. Veterans preference -- Willful failure to give preference**
 1310 **a misdemeanor.**

1311 (1) [~~Any officers, agents, or representatives~~] An officer, agent, or representative of a
 1312 government entity who is charged with employment of people [~~and who~~] may not willfully
 1313 [~~fails~~] fail to give preference as provided in this chapter.

1314 (2) Willful failure to extend veterans preference to an applicant is [~~guilty of~~] a class B
 1315 misdemeanor.

1316 Section 21. Section **71A-3-101**, which is renumbered from Section 71-9-1 is
 1317 renumbered and amended to read:

1318 **CHAPTER 3. VETERANS SERVICE ORGANIZATIONS**

1319 **ASSISTANCE CONTRACTS**

1320 ~~[71-9-1].~~ **71A-3-101. Veterans service organizations assistance contracts --**
 1321 **Contract to provide assistance to service members, veterans and their spouses, surviving**
 1322 **spouses, and children.**

1323 The [~~Department of Veterans and Military Affairs~~] department is authorized to contract
 1324 with [~~the American Legion, the Disabled American Veterans, and the Veterans of Foreign~~
 1325 ~~Wars of the United States, as]~~ a veterans service organization organized in this state[;] to
 1326 provide, especially in the outlying areas of the state, assistance to service members, veterans,
 1327 their [~~widows~~] spouses, surviving spouses, and children as follows:

1328 (1) [~~to~~] disseminate information regarding all laws applicable [~~to veterans, their~~
 1329 ~~widows, and children~~] in the preparation, presentation, and prosecution of claims against the

1330 United States arising by reason of service in the [~~military, naval, or air services~~] uniformed
1331 services;

1332 (2) [~~to~~] assist [~~veterans, their widows, and children~~] in the establishment of all rights
1333 and the procurement of all benefits which may accrue to [~~them~~] eligible individuals under the
1334 laws of this state or of the United States;

1335 (3) [~~to~~] cooperate with any and all agencies and instrumentalities of this state or of the
1336 United States having to do with [~~the~~] employment or reemployment [~~of veterans~~];

1337 (4) [~~to~~] cooperate with any and all agencies and instrumentalities of this state or of the
1338 United States and make a representative and information available on a rotating basis in the
1339 outlying areas of the state;

1340 (5) [~~to~~] assist [~~veterans~~] eligible individuals in obtaining [~~such~~] any preference for
1341 employment [~~as may be~~] authorized by the laws of this state or of the United States; and

1342 (6) [~~to~~] assist [~~veterans, their widows, and children~~] eligible individuals in obtaining
1343 emergency relief, and [~~to that end~~] cooperate with [~~such~~] any agencies and instrumentalities of
1344 this state or of the United States [~~as have been or may be~~] established for the purpose of
1345 extending emergency relief.

1346 Section 22. Section **71A-3-102**, which is renumbered from Section 71-9-2 is
1347 renumbered and amended to read:

1348 ~~[71-9-2]~~. **71A-3-102. Veterans service organizations assistance contracts --**
1349 **Contracts subject to appropriation of funds.**

1350 Any contract entered into under Section [~~71-9-1~~] 71A-3-101 shall expressly state that it
1351 is subject to the appropriation of sufficient funds by the Legislature to carry out its terms and
1352 that the decision of the executive director [~~of the Department of Veterans and Military Affairs~~]
1353 as to whether an appropriation is sufficient to carry out the terms of the contract is conclusive.

1354 Section 23. Section **71A-3-103**, which is renumbered from Section 71-9-5 is
1355 renumbered and amended to read:

1356 ~~[71-9-5]~~. **71A-3-103. Veterans service organizations assistance contracts --**
1357 **Attorney general to represent state concerning contracts.**

1358 The attorney general shall represent the state in all proceedings involving any contract
1359 entered into under [~~section 71-9-1~~] Section 71A-3-101, and shall [~~render~~] provide any legal
1360 assistance necessary in carrying out the provisions of that section.

1361 Section 24. Section **71A-4-101**, which is renumbered from Section 71-13-102 is
 1362 renumbered and amended to read:

1363 **CHAPTER 4. VETERANS BENEFITS APPLICATION ASSISTANCE ACT**

1364 [~~71-13-102~~]. **71A-4-101. Veterans Benefits Application Assistance Act --**

1365 **Definitions.**

1366 (1) As used in this chapter:

1367 [(1)] (a) "Accredited" means a veterans service organization representative, agent, or
 1368 attorney to whom authority has been granted by the VA to provide assistance to claimants in
 1369 the preparation, presentation, and prosecution of claims for VA benefits.

1370 [(2)] (b) "Assistance" means an accredited individual providing claimant-specific
 1371 recommendations or preparing or submitting an application for VA benefits on behalf of a
 1372 claimant.

1373 [(3)] (c) "Certify" means to submit in writing to a veteran or the veteran's dependents
 1374 certain disclosure forms provided by the department.

1375 [(4)] (d) "Claimant" means a person who has filed or has expressed to a service
 1376 organization representative, agent, or attorney an intention to file a written application for
 1377 determination of entitlement to benefits provided under United States Code, Title 38, and
 1378 implementing directives.

1379 [(5) "~~Department~~" means the ~~Department of Veterans and Military Affairs.~~]

1380 [(6) "~~Executive director~~" means the ~~executive director of the Department of Veterans~~
 1381 ~~and Military Affairs.~~]

1382 [(7)] (e) "Non-compliant referral" means referring a veteran's or a veteran's dependent's
 1383 original claim for veteran benefits for assistance to an individual who is in violation of the
 1384 provisions of this chapter.

1385 [(8)] (f) "Referring entity" means an individual, business, or organization licensed in
 1386 this state who refers or assists a veteran or a veteran's dependents for assistance with an
 1387 original claim for veteran benefits.

1388 [(9) "~~VA~~" means the ~~United States Department of Veterans Affairs.~~]

1389 [(10)] (g) "VA benefits" means any payment, service, commodity, function, or status
 1390 entitlement which is determined under laws administered by the VA pertaining to veterans,
 1391 dependents, and survivors as well as other potential beneficiaries under United States Code,

1392 Title 38.

1393 ~~[(H)]~~ (h) "Veteran" includes all eligible dependents.

1394 (2) Terms defined in Section 71A-1-101 apply to this chapter.

1395 Section 25. Section ~~71A-4-102~~, which is renumbered from Section 71-13-103 is

1396 renumbered and amended to read:

1397 ~~[71-13-103]~~. 71A-4-102. Veterans Benefits Application Assistance Act --

1398 **Disclosure requirement for assisting a claimant.**

1399 (1) Each ~~[person]~~ individual offering to assist veterans in applying for benefits shall:

1400 (a) be accredited, in compliance with the provisions of C.F.R., Title 38, Pensions,
1401 Bonuses, and Veterans' Relief, or, if under the supervision of an accredited attorney meet the
1402 provisions of C.F.R., Title 38, pertaining to authorized claim representation under an attorney;
1403 and

1404 (b) disclose in writing, in a format approved by the department that the claimant can
1405 retain, the federal laws, regulations, and rules governing assistance for VA benefits.

1406 (2) The disclosure required by Subsection (1)(b) shall specifically include:

1407 (a) the individual's:

1408 (i) name;

1409 ~~[(b)]~~ (ii) ~~[the individual's]~~ business address;

1410 ~~[(c)]~~ (iii) ~~[the individual's]~~ business phone number; and

1411 ~~[(d)]~~ (iv) the ~~[individual's]~~ registration number from the VA;

1412 ~~[(e)]~~ (b) a statement of the claimant's rights regarding the assistance for VA benefits,
1413 including that there is no charge to the claimant or a member of the claimant's family for
1414 assistance with the initial benefits application; and

1415 ~~[(f)]~~ (c) a statement that if, as a result of the individual providing assistance for a claim,
1416 income is accrued to the assisting individual from the sale of a product or other services to the
1417 claimant, the income is both justified and reasonable as compared with income from similar
1418 products and services available in the state.

1419 (3) No provisions of the form may be struck out or designated as nonapplicable.

1420 (4) Disclosure forms, when completed, shall be:

1421 (a) signed by both the individual providing assistance and the claimant; and

1422 (b) retained for three years by the assisting individual.

1423 (5) Copies of the disclosure form shall be provided to:

1424 (a) the veteran on the day the form is completed and signed; and

1425 (b) the department within five working days.

1426 Section 26. Section **71A-4-103**, which is renumbered from Section 71-13-104 is

1427 renumbered and amended to read:

1428 ~~[71-13-104]~~. **71A-4-103. Veterans Benefits Application Assistance Act --**

1429 **Education requirements.**

1430 (1) All individuals and attorneys providing assistance to a veteran shall complete three
1431 hours of qualifying education as specified in 38 C.F.R. 14.629(b) during the first 12 month
1432 period following the date of initial accreditation~~[; and]~~.

1433 (2) ~~[an]~~ An additional three hours of qualifying continuing education shall be
1434 completed every two years following the initial 12-month period.

1435 Section 27. Section **71A-4-104**, which is renumbered from Section 71-13-105 is

1436 renumbered and amended to read:

1437 ~~[71-13-105]~~. **71A-4-104. Veterans Benefits Application Assistance Act --**

1438 **Department responsibilities -- Notification -- Assistance -- Complaints -- Claimant**
1439 **responsibilities.**

1440 (1) The ~~[Department of Veterans and Military Affairs]~~ department shall notify in
1441 writing each veteran for whom the department has contact information that any individual or
1442 business offering to assist veterans in applying for benefits shall disclose in writing to the
1443 veteran the following:

1444 (a) 38 C.F.R. 14.629 and 38 C.F.R. 14.630 require that any individual providing
1445 assistance be accredited by the VA;

1446 (b) federal law restricts charging a veteran a fee for assisting in the initial application
1447 for VA benefits; and

1448 (c) the department's website has a list with contact information of VA accredited claim
1449 representatives.

1450 (2) Beginning July 1, 2015, and every three years after the department shall:

1451 (a) notify the Insurance Department regarding the federal law governing assistance for
1452 VA benefits, and the Insurance Department shall notify all individual producers and
1453 consultants licensed by the Insurance Department at the time of initial licensing and upon

1454 license renewal of those same federal laws governing assistance for VA benefits;

1455 (b) contact the Utah State Bar regarding federal law governing legal assistance for
1456 claimants applying for benefits and request that the association provide continuing legal
1457 education on federal laws governing assistance; and

1458 (c) notify the Department of Health and Human Services regarding federal law
1459 governing the assistance for claimants applying for benefits, and require the Department of
1460 Health [~~shall~~] and Human Services to notify all assisted living and nursing care facilities of
1461 those federal laws.

1462 (3) The executive director may establish procedures for processing complaints related
1463 to assistance regarding a claim for VA benefits.

1464 (4) For violations by accredited or non-accredited individuals who offer assistance with
1465 VA benefits, the executive director may audit selected assisting individuals and referring
1466 entities for compliance with this chapter and federal laws which govern the provision of
1467 assistance to claimants.

1468 Section 28. Section **71A-4-105**, which is renumbered from Section 71-13-106 is
1469 renumbered and amended to read:

1470 ~~[71-13-106].~~ **71A-4-105. Veterans Benefits Application Assistance Act --**
1471 **Exempt organizations.**

1472 Accredited representatives of the following organizations are exempt from the
1473 provisions of this chapter:

- 1474 (1) American Legion;
- 1475 (2) Veterans of Foreign Wars;
- 1476 (3) Disabled American Veterans;
- 1477 (4) Vietnam Veterans of America;
- 1478 (5) American Veterans (AMVET);
- 1479 (6) Military Order of the Purple Heart; and
- 1480 (7) other VA recognized service organizations or individuals as determined by the
1481 executive director.

1482 Section 29. Section **71A-5-101**, which is renumbered from Section 71-12-102 is
1483 renumbered and amended to read:

1484 **CHAPTER 5. VETERANS ASSISTANCE REGISTRY**

1485 ~~[71-12-102].~~ 71A-5-101. Veterans Assistance Registry -- Definitions.

1486 (1) As used in this chapter:

1487 ~~[(1) "Council" means the Veterans Advisory Council as created in Section 71-8-4.]~~

1488 ~~[(2) "Department" means the Department of Veterans and Military Affairs as created in~~
1489 ~~Section 71-8-2.]~~

1490 ~~[(3)]~~ (a) "Donor" means an individual or entity that provides material goods, services,
1491 or labor without charge to veterans in accordance with this chapter.

1492 ~~[(4)]~~ (b) "Recipient" means a veteran as defined in Section 68-3-12.5, or a veteran's
1493 dependent spouse and children.

1494 (2) Terms defined in Section 71A-1-101 apply to this chapter.

1495 Section 30. Section **71A-5-102**, which is renumbered from Section 71-12-103 is
1496 renumbered and amended to read:

1497 ~~[71-12-103].~~ 71A-5-102. Veterans Assistance Registry.

1498 (1) There is created within the department a Veterans Assistance Registry.

1499 (2) The intent of the registry is to provide contact information to qualified donors of
1500 material goods, services, and labor for qualified recipients in need of specific goods, services,
1501 or labor.

1502 (3) The department shall, in consultation with the council:

1503 (a) create a database of donors and recipients;

1504 (b) develop an electronic link on the department's website to the database of donors
1505 and recipients;

1506 (c) insure that information provided by donors and recipients is only used for the
1507 intended purpose as specified in Subsection (2) and not made public;

1508 (d) provide instructions online for donors and recipients to use in registering for the
1509 registry;

1510 (e) publicize through both local and nationwide veterans service organizations and the
1511 ~~[United States Department of Veterans Affairs]~~ VA the availability of the registry; and

1512 (f) track usage of and report annually on the registry program in accordance with
1513 Section ~~[71-8-3]~~ 71A-1-202.

1514 Section 31. Section **71A-5-103**, which is renumbered from Section 71-12-104 is
1515 renumbered and amended to read:

1516 ~~[71-12-104].~~ 71A-5-103. Immunity for use of registry.

1517 A donor who provides material goods, services, or labor for registry recipients is
1518 considered to be acting on behalf of the department in accordance with the provisions of Title
1519 63G, Chapter 8, Part 2, Immunity for Voluntary Services.

1520 Section 32. Section **71A-6-101**, which is renumbered from Section 71-11-2 is
1521 renumbered and amended to read:

1522 **CHAPTER 6. STATE VETERANS NURSING HOME**

1523 ~~[71-11-2].~~ 71A-6-101. State Veterans Nursing Home -- Definitions.

1524 (1) As used in this chapter:

1525 ~~[(1)]~~ (a) "Administrator" means a ~~[Veterans Nursing Home Administrator]~~ state
1526 veterans nursing home administrator selected in accordance with Section ~~[71-11-5]~~ 71A-6-103.

1527 ~~[(2)]~~ (b) "Board" means any ~~[Veterans Nursing Home Advisory Board]~~ state veterans
1528 nursing home advisory board.

1529 (c) "Home" means any state veterans nursing home.

1530 ~~[(3)]~~ "Department" means the Department of Veterans and Military Affairs created in
1531 Section ~~71-8-2.~~

1532 ~~[(4)]~~ "Executive director" means the executive director of the Department of Veterans
1533 and Military Affairs.]

1534 ~~[(5)]~~ "Home" means any Utah Veterans Nursing Home.]

1535 ~~[(6)]~~ "Veteran" means the same as that term is defined in Section ~~68-3-12.5.~~

1536 (2) Terms defined in Section 71A-1-101 apply to this chapter.

1537 Section 33. Section **71A-6-102**, which is renumbered from Section 71-11-3 is
1538 renumbered and amended to read:

1539 ~~[71-11-3].~~ 71A-6-102. State Veterans Nursing Home -- Establishment and
1540 construction -- Compliance with federal requirements.

1541 (1) The department shall ~~[administer]~~ be responsible for the administration and
1542 operation of state veterans nursing homes established by the Legislature, which may include
1543 contracting with a private health care provider to operate and manage each home.

1544 (2) Each home shall:

1545 (a) have at least an 80-bed capacity;

1546 (b) be designed and constructed consistent with the requirements for federal funding

1547 under 38 U.S.C. Sec. 8131 et seq.; and

1548 (c) be operated consistent with the requirements for per diem payments from the

1549 [~~United States Department of Veterans Affairs~~] VA under 38 U.S.C. Sec. 1741 et seq.

1550 Section 34. Section **71A-6-103**, which is renumbered from Section 71-11-5 is

1551 renumbered and amended to read:

1552 ~~[71-11-5]~~. **71A-6-103**. **State veterans nursing home -- Operation of homes --**

1553 **Rulemaking authority -- Selection of administrator.**

1554 (1) The department shall, subject to the approval of the executive director:

1555 (a) establish appropriate criteria for the admission and discharge of residents for each

1556 home, subject to the requirements in Section ~~[71-11-6]~~ 71A-6-104 and criteria set by the

1557 [~~United States Department of Veterans Affairs~~] VA;

1558 (b) establish a schedule of charges for each home in cases where residents have

1559 available resources;

1560 (c) establish standards for the operation of the homes not inconsistent with standards

1561 set by the [~~United States Department of Veterans Affairs~~] VA;

1562 (d) make rules to implement this chapter in accordance with Title 63G, Chapter 3, Utah

1563 Administrative Rulemaking Act; and

1564 (e) ensure that the homes are licensed in accordance with Title 26, Chapter 21, Health

1565 Care Facility Licensing and Inspection Act, and 38 U.S.C. Sec. 1742(a).

1566 (2) The department shall~~[, after reviewing recommendations of the board,];~~

1567 (a) appoint an administrator for each home; or

1568 (b) approve the individual selected by the contract health care provider as the

1569 administrator at each home.

1570 Section 35. Section **71A-6-104**, which is renumbered from Section 71-11-6 is

1571 renumbered and amended to read:

1572 ~~[71-11-6]~~. **71A-6-104**. **State veterans nursing home -- Eligibility -- Admission**

1573 **requirements.**

1574 (1) Application for admission shall be made separately to each nursing home

1575 administrator.

1576 (2) Veterans and their spouses or surviving spouses who are residents of Utah or who

1577 demonstrate intent to establish residency in Utah within six months of applying for admission,

1578 meet federal eligibility requirements, and are in need of nursing home care may be admitted to
1579 any home.

1580 (3) Preference shall be given to veterans who are without adequate means of support
1581 and unable, due to wounds, disease, old age, or infirmity, to properly maintain themselves.

1582 Section 36. Section **71A-6-105**, which is renumbered from Section 71-11-7 is
1583 renumbered and amended to read:

1584 ~~[71-11-7]~~. **71A-6-105. Veterans nursing home -- Advisory boards.**

1585 (1) Each home shall have a nursing home advisory board to act as a liaison between the
1586 residents, members of the public, and the administration of the home.

1587 (2) Each board shall consist of at least seven, but no more than 11, members appointed
1588 as follows by the executive director:

1589 (a) one appointee of the Resident Council of the specific veterans nursing home;

1590 (b) three veterans from the geographic area in which the veterans nursing home is
1591 located;

1592 (c) one medical professional experienced in veteran nursing home quality of care
1593 issues;

1594 (d) three at-large members with an interest in the success of veterans nursing homes;
1595 and

1596 (e) one member each from:

1597 (i) the American Legion;

1598 (ii) Disabled American Veterans; and

1599 (iii) the Veterans of Foreign Wars.

1600 (3) (a) (i) Members shall serve ~~for~~ four-year terms.

1601 (ii) Except as required by Subsection (3)(b), as terms of current board members expire,
1602 the executive director shall appoint each new or reappointed member to a four-year term
1603 beginning on July 1.

1604 (b) The executive director shall, at the time of appointment or reappointment, adjust
1605 the length of terms to ensure that the terms of board members are staggered so that
1606 approximately half of the board is appointed every two years.

1607 (c) The executive director shall make final appointments to the board by June 30 of any
1608 year in which appointments are to be made under this chapter.

1609 (4) Vacancies not including the Resident Council representative shall be filled by the
1610 executive director within 60 days of receiving notice of a vacancy, but only for the unexpired
1611 term of the vacated member.

1612 (5) Members may not serve more than two consecutive terms.

1613 (6) Each board shall elect a chair annually from among its members at its first meeting
1614 after July 1.

1615 (7) Each board shall meet at least quarterly.

1616 (8) A majority of the members of the board present constitute a quorum for the
1617 transaction of business.

1618 (9) Each board shall provide copies of all minutes of each meeting to the [~~Department~~
1619 ~~of Veterans and Military Affairs~~] department within 14 days of approval.

1620 (10) A member may not receive compensation or benefits for the member's service, but
1621 may receive per diem and travel expenses in accordance with:

1622 (a) Section [63A-3-106](#);

1623 (b) Section [63A-3-107](#); and

1624 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
1625 [63A-3-107](#).

1626 Section 37. Section **71A-6-106**, which is renumbered from Section 71-11-8 is
1627 renumbered and amended to read:

1628 ~~[71-11-8]~~. **71A-6-106. State Veterans Nursing Home Fund.**

1629 (1) There is created an expendable special revenue fund entitled the "Utah State
1630 Veterans Nursing Home Fund" to be administered by the department for the benefit of each
1631 home and its residents.

1632 (2) All cash donations, gifts, or bequests shall be deposited in the fund and used
1633 according to the wishes of the donor.

1634 (3) All funds received by the homes from federal or state agencies, individual
1635 insurance reimbursement, or cash payments shall be deposited in the fund.

1636 (4) Funds received that are designated for a specific home shall be accounted for
1637 separately within the fund.

1638 Section 38. Section **71A-6-107**, which is renumbered from Section 71-11-9 is
1639 renumbered and amended to read:

1640 ~~[71-11-9]~~. 71A-6-107. **State veterans nursing home -- Disposition of deceased**
1641 **resident's property.**

1642 (1) (a) All money or other personal property of a resident held by a home that is left on
1643 the premises of the home shall, upon the death of the resident, be held in trust to be paid or
1644 delivered to the spouse, children, grandchildren, or parent of the resident upon the presentation
1645 of proof of relationship.

1646 (b) Any funds of a deceased resident may be disbursed for the payment of funeral
1647 expenses or any obligation owed to the home.

1648 (2) Property owned by a deceased resident of the home who dies without heirs or
1649 next-of-kin not disposed of by will shall become the property of the home and deposited in the
1650 fund, subject to the right of any heir to reclaim the property within five years after the resident's
1651 death upon the presentation of proof of relationship.

1652 Section 39. Section **71A-6-108**, which is renumbered from Section 71-11-10 is
1653 renumbered and amended to read:

1654 ~~[71-11-10]~~. 71A-6-108. **State veterans nursing home -- Hobby promotion --**
1655 **Sales of articles manufactured by residents -- Proceeds to residents.**

1656 (1) Each home shall promote hobbies designed to improve the general welfare and
1657 mental condition of the residents.

1658 (2) The home may provide limited funds to initiate a hobby program, but shall limit the
1659 program to those hobbies that, in its judgment, will be self sustaining.

1660 (3) The department may enter into contracts with federal or state agencies or private
1661 concerns for the receipt of articles manufactured by residents of the homes.

1662 (4) Proceeds generated by hobbies shall be used to pay for materials. Any excess
1663 proceeds shall be paid to the individual veterans who produced the articles.

1664 Section 40. Section **71A-7-101**, which is renumbered from Section 71-2-1 is
1665 renumbered and amended to read:

1666 **CHAPTER 7. VETERANS MEMORIALS AND CEMETERIES**

1667 **Part 1. Memorials**

1668 ~~[71-2-1]~~. 71A-7-101. **Memorials by cities and towns.**

1669 (1) The boards of city commissioners, city councils, and town boards, respectively,
1670 may appropriate from any fund of the city or town available for general purposes [~~such sums as~~

1671 ~~they may deem~~ amounts considered expedient for the purpose of erecting or contributing to
 1672 the erection of~~;~~ a memorial to commemorate the achievements of ~~[soldiers, sailors and~~
 1673 ~~marines]~~ uniformed service members and veterans of the state ~~[of Utah in the Great World~~
 1674 ~~War, where such memorial is erected]~~ within their respective cities or towns.

1675 (2) The city commissioners, city council, or town board may, when authorized by the
 1676 qualified electors of ~~[such]~~ the city or town, issue general obligation bonds ~~[of such city or~~
 1677 ~~town]~~ and devote the proceeds ~~[of the same]~~ to the erection of ~~[such memorial]~~ memorials.

1678 Section 41. Section **71A-7-102**, which is renumbered from Section 71-2-2 is
 1679 renumbered and amended to read:

1680 ~~[71-2-2].~~ **71A-7-102. Memorials by counties.**

1681 (1) The county legislative body of the several counties may ~~[erect]~~ raise and maintain,
 1682 appropriate money for, and contribute to the ~~[erection]~~ building and maintenance of, memorials
 1683 to the memory of veterans of ~~[the several]~~ any wars in which the United States of America
 1684 participated.

1685 (2) Memorials may be in the form of grave adornments, public buildings, monuments,
 1686 recreational areas and facilities, parks, and public places~~;~~ ~~provided, that no~~.

1687 (3) A county legislative body may not erect and maintain, assist in, or contribute to, the
 1688 erection or maintenance of any memorial which is outside of the boundaries of the county.

1689 Section 42. Section **71A-7-103**, which is renumbered from Section 71-2-3 is
 1690 renumbered and amended to read:

1691 ~~[71-2-3].~~ **71A-7-103. County tax for memorials.**

1692 ~~[For the raising of funds with which to carry out the provisions of the next preceding~~
 1693 ~~section, and for such use only, the]~~ The county legislative body may levy and collect an annual
 1694 tax upon ~~[the]~~ property ~~[situate]~~ situated within the county to raise funds for memorials under
 1695 this part.

1696 Section 43. Section **71A-7-201**, which is renumbered from Section 71-7-1 is
 1697 renumbered and amended to read:

1698 **Part 2. Veteran Burials**

1699 ~~[71-7-1].~~ **71A-7-201. Veteran burials -- Veterans not to be buried in ground**
 1700 **used for paupers.**

1701 The body of ~~[a person]~~ an individual who dies while in the military service of the

1702 United States of America during any period of war, police action, or other period of national
 1703 emergency, or the body of any veteran of the military service of the United States of America
 1704 who served during any war, police action, or other period of national emergency, ~~shall~~ may
 1705 not be buried in any portion of any cemetery or burial ground used for the burial of paupers.

1706 Section 44. Section **71A-7-202**, which is renumbered from Section 71-7-2 is
 1707 renumbered and amended to read:

1708 ~~[71-7-2].~~ **71A-7-202. Veteran burials -- Political subdivisions may provide**
 1709 **proper burial sites.**

1710 ~~[For the purpose of giving effect to this act, cities]~~ Municipalities, towns, counties, or
 1711 other political subdivisions of the state ~~[of Utah]~~ may grant burial sites to chartered veterans
 1712 organizations without financial consideration ~~[therefor,]~~ or may provide a proper site for the
 1713 burial of any persons covered by this ~~[act]~~ chapter without financial consideration.

1714 Section 45. Section **71A-7-203**, which is renumbered from Section 71-7-5 is
 1715 renumbered and amended to read:

1716 ~~[71-7-5].~~ **71A-7-203. Veteran burials -- Veterans Remains Organization --**
 1717 **Funeral service establishments -- Liability -- State agency -- Responsibilities.**

1718 (1) As used in this section:

1719 (a) "Remains facility" means the same as a funeral service establishment defined in
 1720 Section [58-9-102](#).

1721 (b) "Status information" means a veteran or a veteran's dependent's name, date of birth,
 1722 place of birth, date of death, Social Security number, military service number, branch of
 1723 service, and military rank on date of death.

1724 (c) "Veterans Remains Organization" means an entity recognized and authorized by the
 1725 United States Veterans Administration and the National Personnel Records Center to verify
 1726 and inter the unclaimed cremated remains of United States military veterans or a veteran's
 1727 dependents.

1728 (2) A veterans remains organization may contact a remains facility for the purpose of
 1729 identifying any unclaimed cremated remains of a military veteran or a veteran's dependent.

1730 (a) Upon contact with the remains facility, the organization shall:

1731 (i) provide identifying documentation to the remains facility; and

1732 (ii) with the permission of the remains facility, inventory any unclaimed cremated

1733 remains in order to identify any remains of a veteran or a veteran's dependent.

1734 (b) The organization shall contact the National Personnel Records Center to determine
1735 if any of the unclaimed cremated remains are:

1736 (i) a veteran's or a veteran's dependent's remains; and

1737 (ii) eligible for interment benefits.

1738 (c) The organization shall claim any unclaimed cremated remains from a remains
1739 facility upon providing the facility with proof that the remains are those of a veteran or a
1740 veteran's dependent and are eligible for interment benefits.

1741 (d) The organization shall make arrangements to inter the remains.

1742 (3) A remains facility:

1743 (a) may allow a veterans remains organization, upon presentation of identification, to
1744 inventory unclaimed cremated remains;

1745 (b) shall provide all status information in the remains facility's possession to a veterans
1746 remains organization;

1747 (c) shall release any unclaimed cremated remains to a veterans remains organization
1748 upon presentation of documentation that the remains are of a veteran or a veteran's dependent
1749 who is eligible for burial in a state or national cemetery; and

1750 (d) is not subject to civil liability for release of status information or release of the
1751 unclaimed cremated remains following the presentation of documentation indicating the
1752 remains are those of a veteran or a veteran's dependent and eligible for interment benefits.

1753 (4) The ~~[Department of Veterans and Military Affairs]~~ department shall, upon
1754 presentation of documentation that certain cremated remains in the possession of a veterans
1755 remains organization are those of a veteran or a veteran's dependent and eligible for interment
1756 benefits:

1757 (a) authorize the interment of the cremated remains in a state veterans cemetery; and

1758 (b) provide assistance to the veterans remains organization in the interment process.

1759 Section 46. Section **71A-7-301**, which is renumbered from Section 71-7-3 is
1760 renumbered and amended to read:

1761 **Part 3. Veterans Cemeteries**

1762 ~~[71-7-3]~~. **71A-7-301. Veterans cemeteries -- Development, operation, and**
1763 **maintenance -- Responsibilities of Department -- Costs.**

1764 (1) The [~~Department of Veterans and Military Affairs~~] department shall develop,
 1765 operate, and maintain [a] veterans [~~cemetery and memorial park~~] cemeteries.

1766 (2) To help pay the costs of developing, constructing, operating, and maintaining [a]
 1767 veterans [~~cemetery and memorial park~~] cemeteries, the [~~Department of Veterans and Military~~
 1768 ~~Affairs~~] department may:

1769 (a) [~~by following the procedures and requirements of Title 63J, Chapter 5, Federal~~
 1770 ~~Funds Procedures Act,~~] receive federal funds[~~, and may~~] by following the procedures and
 1771 requirements of Title 63J, Chapter 5, Federal Funds Procedures Act;

1772 (b) receive state funds, contributions from veterans organizations, and other private
 1773 donations; and

1774 [(b)] (c) charge fees for at least the cost of the burial of a veteran's spouse and any
 1775 other persons, [~~whom~~] who the department determines [~~are~~] is eligible to be buried in a
 1776 veterans cemetery established by the state.

1777 [(3)] "~~Veteran~~" has the same meaning as defined in Section ~~68-3-12.5~~;

1778 Section 47. Section **71A-8-101**, which is renumbered from Section 39-3-1 is
 1779 renumbered and amended to read:

CHAPTER 8. EMPLOYEES IN MILITARY SERVICE

1780 ~~[39-3-1]~~. **71A-8-101. Public officers and employees in military service -- Not**
 1781 **to be prejudiced thereby -- Refusal to reinstate -- Procedure -- Motion -- Hearing and**
 1782 **determination.**
 1783

1784 (1) As used in this chapter, "public officer" means the same as that term is defined in
 1785 Section ~~67-16-3~~.

1786 (2) A [~~public employee,~~] public officer[~~, or legislative employee, as defined in Section~~
 1787 ~~67-16-3,~~] who enters state or federal active service in any branch of the armed forces of this
 1788 state or of the United States shall be granted a leave of absence not to exceed five years during
 1789 that service.

1790 [(2)] (3) (a) A person entitled to a leave of absence under this section shall be restored
 1791 to the same position, or to a position equivalent to the same position, which the person held
 1792 immediately prior to the commencement of active military service.

1793 (b) A request for restoration of employment under this section must be submitted
 1794 within 40 days after release from active service.

1795 (c) Restoration of employment shall be made within 20 days after submission of the
1796 request to the employer.

1797 (d) A person returning from active military service may not, without cause, be
1798 discharged or subjected to reduction of compensation for a period of one year following a
1799 return to employment under this section.

1800 ~~[(3)]~~ (4) A person returning to employment under this section:

1801 (a) shall retain all personal, sick, and other leave to which the person was entitled
1802 immediately prior to the commencement of active military service;

1803 (b) shall receive and earn benefits and compensation at a level not less than that to
1804 which the person would have been entitled had the officer or employee not been absent due to
1805 active military service; and

1806 (c) may not be prejudiced, by the preservice employer or that employer's successor in
1807 interest, as to employment, appointment, reappointment, reemployment, or promotion by
1808 reason of the employee's active military service.

1809 ~~[(4)]~~ (5) (a) ~~[No public employee,]~~ A public officer~~[, or legislative employee]~~ may not
1810 be required to resign from, vacate, or forfeit a governmental office or position as a consequence
1811 of entering into active military service.

1812 (b) A person in active military service is not considered to be holding an office or
1813 position of trust or employment under the United States government for purposes of
1814 determining whether that person is disqualified or prohibited from retaining a position or
1815 serving as a ~~[public employee,]~~ public officer~~[, or legislative employee]~~.

1816 (c) Nothing in this section shall serve to extend a period of employment or term of
1817 office beyond that to which the affected person was elected or appointed. A person who is a
1818 legislator or public officer for a specific term by virtue of election or appointment is entitled to
1819 a leave of absence under this section for a period not to exceed the applicable term.

1820 ~~[(5)]~~ (6) A person denied restoration of employment or benefits given under this
1821 ~~[section]~~ chapter may petition the district court of the county in which the person resides, or in
1822 which the denial occurs, to require the public employer to comply with the provisions of this
1823 section without delay. Fees or court costs may not be assessed against the petitioner. The
1824 court shall order a speedy hearing in the case and advance it on the calendar so far as
1825 reasonably possible. If the court determines that the petitioner is entitled to relief, the court

1826 shall order all appropriate relief, to include compensation for loss of wages and benefits and an
1827 award of attorneys' fees and costs.

1828 Section 48. Section **71A-8-102**, which is renumbered from Section 39-3-2 is
1829 renumbered and amended to read:

1830 ~~[39-3-2]~~. **71A-8-102. Employees in military service -- Government employees**
1831 **in United States armed forces or National Guard -- Pay allowance for time spent on duty**
1832 **-- Deduction of vacation time prohibited.**

1833 (1) All state employees who are members of the organized reserve of the United States
1834 armed forces, including the National Guard of this state, shall be allowed full pay for all time
1835 not in excess of 15 days per year spent ~~[on duty at annual encampment or rifle competition or~~
1836 ~~other duties in connection with the reserve training and instruction]~~ fulfilling the service
1837 requirements of the armed forces of the United States, including the National Guard of this
1838 state. This leave shall be in addition to any annual vacation leave with pay to which an
1839 employee may be entitled.

1840 (2) County and municipal employees who are members of the organized reserve of the
1841 United States armed forces, including the National Guard of this state, may be allowed up to
1842 full pay for all time not in excess of 15 days per year spent ~~[on duty at annual encampment or~~
1843 ~~rifle competition or other duties in connection with the reserve training and instruction]~~
1844 fulfilling the service requirements of the armed forces of the United States, including the
1845 National Guard of this state. This leave is at the discretion of the employing county or
1846 municipality and, if granted, shall be in addition to annual vacation leave with pay.

1847 (3) The governor, counties, and municipal agencies may adopt ordinances, exceptions,
1848 rules, or policies that:

1849 (a) provide more than 15 days of paid military leave;

1850 (b) provide for differential pay that compensates the difference, if any, between the
1851 service member's civilian pay and military pay, not to include allowances; and

1852 (c) extend health, dental, vision, disability, and life insurance benefits to members of
1853 the National Guard and reserves activated for more than 30 days.

1854 Section 49. Section **71A-8-103**, which is renumbered from Section 39-1-64 is
1855 renumbered and amended to read:

1856 ~~[39-1-64]~~. **71A-8-103. Employees in military service -- Extension of licenses for**

1857 **members of National Guard and reservists ordered to active duty.**

1858 (1) As used in this section, "license" means any license issued under:

1859 (a) Title 58, Occupations and Professions; and

1860 (b) Section [26-8a-302](#).

1861 (2) Any license held by a member of the National Guard or reserve component of the
1862 armed forces that expires while the member is on state or federal active duty shall be extended
1863 until 90 days after the member is discharged from active duty status.

1864 (3) The licensing agency shall renew a license extended under Subsection (2) until the
1865 next date that the license expires or for the period that the license is normally issued, at no cost
1866 to the member of the National Guard or reserve component of the armed forces if all of the
1867 following conditions are met:

1868 (a) the National Guard member or reservist requests renewal of the license within 90
1869 days after being discharged;

1870 (b) the National Guard member or reservist provides the licensing agency with a copy
1871 of the member's or reservist's official orders calling the member or reservist to active duty, and
1872 official orders discharging the member or reservist from active duty; and

1873 (c) the National Guard member or reservist meets all the requirements necessary for the
1874 renewal of the license, except the member or reservist need not meet the requirements, if any,
1875 that relate to continuing education or training.

1876 (4) The provisions of this section do not apply to:

1877 (a) regularly scheduled annual training;

1878 (b) in-state active National Guard and reserve orders; or

1879 (c) orders that do not require the service member to relocate outside of this state.

1880 Section 50. Section **71A-8-104**, which is renumbered from Section 39-7-118 is
1881 renumbered and amended to read:

1882 **[39-7-118]. 71A-8-104. Employees in military service -- Professional liability**
1883 **protection for certain persons ordered to active duty in the armed forces.**

1884 (1) This section applies to a person who:

1885 (a) is ordered to state or federal military service, other than training; and

1886 (b) immediately before receiving the order to military service:

1887 (i) was engaged in the furnishing of health-care services or other services determined

1888 by rule to be professional services; and

1889 (ii) had in effect a professional liability insurance policy that does not continue to cover
1890 claims filed with respect to the service member during the period of the service member's
1891 active duty unless the premiums are paid for coverage for that period.

1892 (2) Coverage of a person referred to in Subsection (1) by a professional liability
1893 insurance policy shall be suspended by the insurance carrier in accordance with Subsection (3)
1894 upon receipt of a written request by the service member.

1895 (3) A professional liability insurance carrier:

1896 (a) may not require that premiums be paid by or on behalf of a service member for any
1897 professional liability insurance coverage suspended pursuant to Subsection (2); and

1898 (b) shall refund any amount paid for coverage for the period of the suspension or, upon
1899 the election of the service member, apply the amount for the payment of any premium
1900 becoming due upon the reinstatement of the coverage.

1901 (4) A professional liability insurance carrier is not liable with respect to any claim that
1902 is based on professional conduct, including any failure to take any action in a professional
1903 capacity of a person that occurs during a period of suspension of that person's professional
1904 liability insurance under this section. For the purposes of the preceding sentence, a claim based
1905 upon the failure of a professional to make adequate provision for patients to be cared for during
1906 the period of the professional's military service is considered an action or failure to take action
1907 before the beginning of the period of suspension of professional liability insurance under this
1908 section, except in a case in which professional services were provided after the date of the
1909 beginning of the period.

1910 (5) (a) Professional liability insurance coverage suspended in the case of any service
1911 member pursuant to Subsection (2) shall be reinstated by the insurance carrier on the date on
1912 which the service member transmits to the insurance carrier a written request for reinstatement.

1913 (b) The request of a service member for reinstatement shall be effective only if the
1914 service member transmits the request to the insurance carrier within 30 days after the date on
1915 which the service member's military service is terminated. The insurance carrier shall notify
1916 the person of the due date for payment of the insurance premium. The premium shall be paid
1917 by the person within 30 days after receipt of the notice.

1918 (6) The period for which professional liability insurance coverage shall be reinstated

1919 for a service member under this section may not be less than the balance of the period for
1920 which coverage would have continued under the policy if the coverage had not been suspended.

1921 (7) An insurance carrier may not increase the amount of the premium charged for
1922 professional liability insurance coverage of any service member for the minimum period of the
1923 reinstatement of coverage required under Subsection (5) to an amount greater than the amount
1924 chargeable for the coverage for the period before the suspension, except to the extent of any
1925 general increase in the premium amounts charged by that carrier for the same professional
1926 liability coverage for other persons similarly covered by the same insurance during the period
1927 of the suspension.

1928 (8) This section does not:

1929 (a) require a suspension of professional liability insurance coverage for any person who
1930 is not a person referred to in Subsection (1) and who is covered by the same professional
1931 liability insurance as a person referred to in Subsection (1); or

1932 (b) relieve any person of the obligation to pay premiums for the coverage not required
1933 to be suspended.

1934 (9) A civil or administrative action for damages on the basis of the alleged professional
1935 negligence or other professional liability of a person whose professional liability insurance
1936 coverage has been suspended under Subsection (2) shall be stayed until the end of the period of
1937 the suspension if:

1938 (a) the action was commenced during the period or suspension;

1939 (b) the action is based on an act or omission that occurred before the date on which the
1940 suspension became effective; and

1941 (c) the suspended professional liability insurance would, except for the suspension, on
1942 its face cover the alleged professional negligence or other professional liability negligence or
1943 other professional liability of the person.

1944 Section 51. Section **76-5-102.4** is amended to read:

1945 **76-5-102.4. Assault against peace officer or a military service member in uniform**
1946 **-- Penalties.**

1947 (1) (a) As used in this section:

1948 (i) "Assault" means an offense under Section [76-5-102](#).

1949 (ii) "Military [~~servicemember~~] service member in uniform" means:

1950 (A) a member of any branch of the United States military who is wearing a uniform as
1951 authorized by the member's branch of service; or

1952 (B) a member of the National Guard serving as provided in Section 39A-3-103.

1953 (iii) "Peace officer" means:

1954 (A) a law enforcement officer certified under Section 53-13-103;

1955 (B) a correctional officer under Section 53-13-104;

1956 (C) a special function officer under Section 53-13-105; or

1957 (D) a federal officer under Section 53-13-106.

1958 (iv) "Threat of violence" means an offense under Section 76-5-107.

1959 (b) Terms defined in Section 76-1-101.5 apply to this section.

1960 (2) (a) An actor commits assault against a peace officer if:

1961 (i) the actor commits an assault or threat of violence against a peace officer, with
1962 knowledge that the peace officer is a peace officer; and

1963 (ii) at the time of the assault or threat of violence, the peace officer was acting within
1964 the scope of authority as a peace officer.

1965 (b) An actor commits an assault or threat of violence against a military
1966 [~~servicemember~~] service member in uniform if:

1967 (i) the actor commits an assault or threat of violence against a military
1968 [~~servicemember~~] service member in uniform; and

1969 (ii) at the time of the assault or threat of violence, the [~~servicemember~~] service member
1970 was on orders and acting within the scope of authority granted to the military [~~servicemember~~]
1971 service member in uniform.

1972 (3) (a) A violation of Subsection (2) is a class A misdemeanor.

1973 (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree
1974 felony if the actor:

1975 (i) has been previously convicted of a class A misdemeanor or a felony violation of this
1976 section; or

1977 (ii) causes substantial bodily injury.

1978 (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a second
1979 degree felony if the actor uses:

1980 (i) a dangerous weapon; or

- 1981 (ii) other means or force likely to produce death or serious bodily injury.
- 1982 (4) This section does not affect or limit any individual's constitutional right to the
- 1983 lawful expression of free speech, the right of assembly, or any other recognized rights secured
- 1984 by the [~~Constitution or laws of Utah or by the Constitution or laws of the United States~~] Utah
- 1985 Constitution or laws, or by the United States Constitution or federal law.
- 1986 (5) An actor who violates this section shall serve, in jail or another correctional facility,
- 1987 a minimum of:
- 1988 (a) 90 consecutive days for a second offense; and
- 1989 (b) 180 consecutive days for each subsequent offense.
- 1990 (6) The court may suspend the imposition or execution of the sentence required under
- 1991 Subsection (5) if the court finds that the interests of justice would be best served by the
- 1992 suspension and the court makes specific findings concerning the disposition on the record.
- 1993 Section 52. Section **78A-5-302** is amended to read:
- 1994 **78A-5-302. Definitions.**
- 1995 As used in this part:
- 1996 (1) "Defendant" means a veteran charged with a criminal offense.
- 1997 (2) "Domestic violence" means the same as that term is defined in Section [77-36-1](#).
- 1998 (3) (a) "Participant agreement" means the record, required by Subsection
- 1999 [78A-5-304](#)(1), of the policies and procedures of a veterans treatment court and any specific
- 2000 terms and conditions applicable to the defendant.
- 2001 (b) "Participant agreement" includes a modification under Section [78A-5-310](#).
- 2002 (4) "Record," except as otherwise provided in Subsection [78A-5-307](#)(1)(c), means
- 2003 information that is inscribed on a tangible medium or that is stored in an electronic or other
- 2004 medium and is retrievable in perceivable form.
- 2005 (5) "[~~Servicemember~~] Service member" means:
- 2006 (a) a member of the active or reserve components of the armed forces as defined in
- 2007 Section [68-3-12.5](#); or
- 2008 (b) a member of the National Guard of the United States.
- 2009 (6) (a) "State" means a state of the United States, the District of Columbia, Puerto
- 2010 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
- 2011 jurisdiction of the United States.

2012 (b) "State" includes a federally recognized Indian tribe.

2013 (7) "Veteran" means a former [~~servicemember~~] service member who qualifies for
2014 health care benefits from the Veterans Administration.

2015 (8) "Veterans treatment court" means a veterans treatment court program administered
2016 under this part by a court of this state.

2017 Section 53. Section **78B-20-102** is amended to read:

2018 **78B-20-102. Definitions.**

2019 As used in this chapter:

2020 (1) "Adult" means an individual who has attained 18 years [~~of age~~] old or is an
2021 emancipated minor.

2022 (2) (a) "Caretaking authority" means the right to live with and care for a child on a
2023 day-to-day basis.

2024 (b) "Caretaking authority" includes physical custody, parent-time, right to access, and
2025 visitation.

2026 (3) "Child" means:

2027 (a) an unemancipated individual who has not attained 18 years [~~of age~~] old; or

2028 (b) an adult son or daughter by birth or adoption, or under law of this state other than
2029 this chapter, who is the subject of a court order concerning custodial responsibility.

2030 (4) "Court" means a tribunal, including an administrative agency, authorized under the
2031 law of this state other than this chapter to make, enforce, or modify a decision regarding
2032 custodial responsibility.

2033 (5) "Custodial responsibility" includes all powers and duties relating to caretaking
2034 authority and decision-making authority for a child. The term includes physical custody, legal
2035 custody, parent-time, right to access, visitation, and authority to grant limited contact with a
2036 child.

2037 (6) "Decision-making authority" means the power to make important decisions
2038 regarding a child, including decisions regarding the child's education, religious training, health
2039 care, extracurricular activities, and travel. The term does not include the power to make
2040 decisions that necessarily accompany a grant of caretaking authority.

2041 (7) "Deploying parent" means a [~~servicemember~~] service member who is deployed or
2042 has been notified of impending deployment and is:

- 2043 (a) a parent of a child under the law of this state other than this chapter; or
2044 (b) an individual who has custodial responsibility for a child under the law of this state
2045 other than this chapter.
- 2046 (8) "Deployment" means the movement or mobilization of a [~~servicemember~~] service
2047 member for more than 90 days but less than 18 months pursuant to uniformed service orders
2048 that:
- 2049 (a) are designated as unaccompanied;
2050 (b) do not authorize dependent travel; or
2051 (c) otherwise do not permit the movement of family members to the location to which
2052 the [~~servicemember~~] service member is deployed.
- 2053 (9) "Family care plan" means a formal written contingency plan mandated by
2054 regulation of the various departments and components of the uniformed service that requires
2055 certain [~~servicemember~~] service member parents of minor children to plan in advance for the
2056 smooth, rapid transfer of parental responsibilities to designees during the absence of the
2057 [~~servicemember~~] service member due to death, incapacity, short-term absences, long-term
2058 absences, including deployments, or noncombatant evacuation operations.
- 2059 (10) "Family member" means a sibling, aunt, uncle, cousin, stepparent, or grandparent
2060 of a child, or an individual recognized to be in a familial relationship with a child under the law
2061 of this state other than this chapter.
- 2062 (11) (a) "Limited contact" means the authority of a nonparent to visit a child for a
2063 limited time.
2064 (b) "Limited contact" includes authority to take the child to a place other than the
2065 residence of the child.
- 2066 (12) "Nonparent" means an individual other than a deploying parent or other parent.
- 2067 (13) "Other parent" means an individual who, in common with a deploying parent, is:
2068 (a) a parent of a child under the law of this state other than this chapter; or
2069 (b) an individual who has custodial responsibility for a child under the law of this state
2070 other than this chapter.
- 2071 (14) "Record" means information that is inscribed on a tangible medium or that is
2072 stored in an electronic or other medium and is retrievable in perceivable form.
- 2073 (15) "Return from deployment" means the conclusion of a [~~servicemember's~~] service

2074 member's deployment as specified in uniformed service orders.

2075 (16) "[~~Servicemember~~] Service member" means a member of a uniformed service.

2076 (17) "Sign" means, with present intent to authenticate or adopt a record:

2077 (a) to execute or adopt a tangible symbol; or

2078 (b) to attach to or logically associate with the record an electronic symbol, sound, or
2079 process.

2080 (18) "State" means a state of the United States, the District of Columbia, Puerto Rico,
2081 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
2082 of the United States.

2083 (19) "Uniformed service" means:

2084 (a) active and reserve components of the United States armed forces;

2085 (b) the United States Merchant Marine;

2086 (c) the commissioned corps of the United States Public Health Service;

2087 (d) the commissioned corps of the National Oceanic and Atmospheric Administration
2088 of the United States; or

2089 (e) the [~~national guard~~] National Guard of a state.

2090 Section 54. Section **78B-20-107** is amended to read:

2091 **78B-20-107. General consideration in custody proceeding of parent's military**
2092 **service.**

2093 In a proceeding for custodial responsibility of a child of a [~~servicemember~~] service
2094 member, a court may not consider a parent's past deployment or possible future deployment in
2095 itself in determining the best interest of the child but may consider any significant impact on
2096 the best interest of the child of the parent's past or possible future deployment.

2097 Section 55. **Repealer.**

2098 This bill repeals:

2099 Section **39-1-36, Reserve member of armed forces -- Leave of absence from**
2100 **employment -- Liability of employers.**

2101 Section **71-3-1, Use of armories by veterans organizations permitted.**

2102 Section **71-8-2, Department of Veterans and Military Affairs created --**
2103 **Appointment of executive director -- Department responsibilities.**

2104 Section **71-8-3, Duties of executive director -- Services to veterans.**

- 2105 Section **71-8-5**, **Veterans services coordinator qualifications -- Duties.**
- 2106 Section **71-8-6**, **Government entity participation.**
- 2107 Section **71-8-7**, **Government entity veterans affairs specialist -- Duties -- Training.**
- 2108 Section **71-8-8**, **Entity that provides no services -- Referral to department.**
- 2109 Section **71-11-1**, **Title.**
- 2110 Section **71-11-4**, **Administration by department.**
- 2111 Section **71-12-101**, **Title.**
- 2112 Section **71-13-101**, **Title.**