

Representative Jefferson S. Burton proposes the following substitute bill:

TITLE 71A - VETERANS AND MILITARY AFFAIRS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson S. Burton

Senate Sponsor: Todd D. Weiler

LONG TITLE

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;
- ▶ removes outdated language;



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

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39 **30-3-10**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 40 **30-3-10.1**, as last amended by Laws of Utah 2017, Chapter 224
- 41 **30-3-10.4**, as last amended by Laws of Utah 2019, Chapter 188
- 42 **30-3-10.8**, as last amended by Laws of Utah 2017, Chapter 224
- 43 **34-50-102**, as last amended by Laws of Utah 2016, Chapter 230
- 44 **34-50-103**, as last amended by Laws of Utah 2020, Chapter 333
- 45 **39A-3-202**, as renumbered and amended by Laws of Utah 2022, Chapter 373
- 46 **53B-8-102**, as last amended by Laws of Utah 2020, Chapter 37
- 47 **53G-6-306**, as last amended by Laws of Utah 2022, Chapter 464
- 48 **53G-6-402**, as last amended by Laws of Utah 2022, Chapters 378 and 464
- 49 **53G-6-502**, as last amended by Laws of Utah 2022, Chapter 352
- 50 **59-2-1903**, as enacted by Laws of Utah 2019, Chapter 453
- 51 **59-10-103**, as last amended by Laws of Utah 2021, Chapter 367
- 52 **76-5-102.4**, as last amended by Laws of Utah 2022, Chapters 181 and 373
- 53 **78A-5-302**, as last amended by Laws of Utah 2021, Chapter 93
- 54 **78B-20-102**, as last amended by Laws of Utah 2017, Chapter 224
- 55 **78B-20-107**, as enacted by Laws of Utah 2016, Chapter 292

56 ENACTS:

57 **71A-1-201**, Utah Code Annotated 1953

58 **71A-1-202**, Utah Code Annotated 1953

59 **71A-1-302**, Utah Code Annotated 1953

60 RENUMBERS AND AMENDS:

61 **71A-1-101**, (Renumbered from 71-8-1, as last amended by Laws of Utah 2018, Chapter
62 39)

63 **71A-1-301**, (Renumbered from 71-8-4, as last amended by Laws of Utah 2018, Chapter
64 39)

65 **71A-2-101**, (Renumbered from 71-10-1, as last amended by Laws of Utah 2016,
66 Chapter 230)

67 **71A-2-102**, (Renumbered from 71-10-2, as last amended by Laws of Utah 2018,
68 Chapter 39)

69 **71A-2-103**, (Renumbered from 71-10-3, as last amended by Laws of Utah 2018,
70 Chapter 148)

71 **71A-3-101**, (Renumbered from 71-9-1, as last amended by Laws of Utah 2018, Chapter
72 39)

73 **71A-3-102**, (Renumbered from 71-9-2, as last amended by Laws of Utah 2018, Chapter
74 39)

75 **71A-3-103**, (Renumbered from 71-9-5, as enacted by Laws of Utah 1981, Chapter 282)

76 **71A-4-101**, (Renumbered from 71-13-102, as last amended by Laws of Utah 2018,
77 Chapter 39)

78 **71A-4-102**, (Renumbered from 71-13-103, as enacted by Laws of Utah 2015, Chapter
79 123)

80 **71A-4-103**, (Renumbered from 71-13-104, as enacted by Laws of Utah 2015, Chapter
81 123)

82 **71A-4-104**, (Renumbered from 71-13-105, as last amended by Laws of Utah 2018,
83 Chapter 39)

84 **71A-4-105**, (Renumbered from 71-13-106, as enacted by Laws of Utah 2015, Chapter
85 123)

86 **71A-5-101**, (Renumbered from 71-12-102, as last amended by Laws of Utah 2018,
87 Chapter 39)

- 88 **71A-5-102**, (Renumbered from 71-12-103, as last amended by Laws of Utah 2018,
89 Chapter 39)
- 90 **71A-5-103**, (Renumbered from 71-12-104, as enacted by Laws of Utah 2014, Chapter
91 91)
- 92 **71A-6-101**, (Renumbered from 71-11-2, as last amended by Laws of Utah 2018,
93 Chapter 39)
- 94 **71A-6-102**, (Renumbered from 71-11-3, as last amended by Laws of Utah 2018,
95 Chapter 39)
- 96 **71A-6-103**, (Renumbered from 71-11-5, as last amended by Laws of Utah 2018,
97 Chapter 39)
- 98 **71A-6-104**, (Renumbered from 71-11-6, as last amended by Laws of Utah 2016,
99 Chapter 230)
- 100 **71A-6-105**, (Renumbered from 71-11-7, as last amended by Laws of Utah 2018,
101 Chapter 39)
- 102 **71A-6-106**, (Renumbered from 71-11-8, as last amended by Laws of Utah 2018,
103 Chapter 39)
- 104 **71A-6-107**, (Renumbered from 71-11-9, as last amended by Laws of Utah 2005, First
105 Special Session, Chapter 7)
- 106 **71A-6-108**, (Renumbered from 71-11-10, as last amended by Laws of Utah 2007,
107 Chapter 173)
- 108 **71A-7-101**, (Renumbered from 71-2-1, Utah Code Annotated 1953)
- 109 **71A-7-102**, (Renumbered from 71-2-2, as last amended by Laws of Utah 2001, Chapter
110 30)
- 111 **71A-7-103**, (Renumbered from 71-2-3, as last amended by Laws of Utah 1993, Chapter
112 227)
- 113 **71A-7-201**, (Renumbered from 71-7-1, as enacted by Laws of Utah 1961, Chapter 21)
- 114 **71A-7-202**, (Renumbered from 71-7-2, as last amended by Laws of Utah 2018, Chapter
115 39)
- 116 **71A-7-203**, (Renumbered from 71-7-5, as last amended by Laws of Utah 2018, Chapter
117 39)
- 118 **71A-7-301**, (Renumbered from 71-7-3, as last amended by Laws of Utah 2020, Chapter

119 154)
 120 **71A-8-101**, (Renumbered from 39-3-1, as repealed and reenacted by Laws of Utah
 121 1991, Chapter 65)
 122 **71A-8-102**, (Renumbered from 39-3-2, as last amended by Laws of Utah 2003, Chapter
 123 217)
 124 **71A-8-103**, (Renumbered from 39-1-64, as enacted by Laws of Utah 2004, Chapter 82)
 125 **71A-8-104**, (Renumbered from 39-7-118, as enacted by Laws of Utah 1997, Chapter
 126 306)

127 REPEALS:

128 **39-1-36**, as last amended by Laws of Utah 1989, Chapter 15
 129 **71-3-1**, as last amended by Laws of Utah 2018, Chapter 39
 130 **71-8-2**, as last amended by Laws of Utah 2020, Chapter 409
 131 **71-8-3**, as last amended by Laws of Utah 2018, Chapter 39
 132 **71-8-5**, as last amended by Laws of Utah 2018, Chapter 39
 133 **71-8-6**, as last amended by Laws of Utah 2018, Chapter 39
 134 **71-8-7**, as last amended by Laws of Utah 2018, Chapter 39
 135 **71-8-8**, as enacted by Laws of Utah 2013, Chapter 308
 136 **71-11-1**, as last amended by Laws of Utah 2018, Chapter 39
 137 **71-11-4**, as last amended by Laws of Utah 2018, Chapter 39
 138 **71-12-101**, as last amended by Laws of Utah 2018, Chapter 39
 139 **71-13-101**, as enacted by Laws of Utah 2015, Chapter 123

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

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

143 **30-3-10. Custody of a child -- Custody factors.**

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

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

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

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

212 but is not the single controlling factor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

249 (i) cannabis production establishment agent, as that term is defined in Section
250 4-41a-102;

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

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

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

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

256 **30-3-10.1. Definitions -- Joint legal custody -- Joint physical custody.**

257 As used in this chapter:

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

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

262 (2) "Joint legal custody":

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

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

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

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

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

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

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

283 (5) "Uniformed service" means:

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

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

291 **30-3-10.4. Modification or termination of order.**

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

295 (a) the verified petition or accompanying affidavit initially alleges that admissible
296 evidence will show that the circumstances of the child or one or both parents or joint legal or
297 physical custodians have materially and substantially changed since the entry of the order to be
298 modified;

299 (b) a modification of the terms and conditions of the order would be an improvement
300 for and in the best interest of the child; and

301 (c) (i) both parents have complied in good faith with the dispute resolution procedure
302 in accordance with Subsection [30-3-10.3\(7\)](#); or

303 (ii) if no dispute resolution procedure is contained in the order that established joint
304 legal custody or joint physical custody, the court orders the parents to participate in a dispute

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

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

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

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

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

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

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

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

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

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

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

334 **30-3-10.8. Parenting plan -- Filing -- Modifications.**

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

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

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

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

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

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

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

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

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

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

359 **34-50-102. Definitions.**

360 As used in this chapter:

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

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

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

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

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

370 (3) "Preference eligible" means the same as that term is defined in Section ~~[71-10-1]~~
 371 71A-2-101.

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

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

374 ~~[(5)]~~ (6) "Veteran" means the same as that term is defined in Section 68-3-12.5.

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

376 **34-50-103. Voluntary veterans preference employment policy -- Private**
 377 **employment -- Antidiscrimination requirements.**

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

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

381 (a) in writing; and

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

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

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

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

393 **39A-3-202. Pay and care of soldiers and airmen disabled while on state active**
 394 **duty.**

395 (1) (a) Before a ~~[servicemember]~~ service member may be considered disabled in
 396 accordance with this section, the Adjutant General shall determine whether the

397 ~~[servicemember's]~~ service member's illness, injury, or disease was contracted or occurred

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

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

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

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

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

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

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

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

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

429 regulations to implement this section.

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

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

433 **53B-8-102. Definitions -- Resident student status -- Exceptions.**

434 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

516 (A) a Utah voter registration card;

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

518 (C) a Utah vehicle registration;

519 (D) evidence of employment in Utah;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

578 (iii) when the person moved to Utah;

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

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

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

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

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

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

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

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

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

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

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

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

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

607 (iii) when the person moved to Utah;

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

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

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

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

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

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

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

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

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

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

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

631 **53G-6-306. Permitting attendance by nonresident of the state -- Tuition.**

632 (1) As used in this section:

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

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

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

639 (ii) on permanent change of station orders.

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

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

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

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

646 (e) "Uniformed services" means:

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

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

649 (iii) the national guard of a state.

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

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

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

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

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

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

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

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

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

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

672 **53G-6-402. Open enrollment options -- Procedures -- Processing fee -- Continuing**
673 **enrollment.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

723 (A) school construction or remodeling;

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

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

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

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

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

734 (a) the student graduates;

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

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

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

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

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

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

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

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

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

753 (a) the district of residence; or

754 (b) another nonresident district.

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

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

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

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

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

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

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

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

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

780 **53G-6-502. Eligible students.**

781 (1) As used in this section:

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

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

785 (c) "Open enrollment threshold" means the same as that term is defined in Section
786 **53G-6-401**.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

849 Section 12. Section **59-2-1903** is amended to read:

850 **59-2-1903. Veteran armed forces exemption -- Amount.**

851 (1) As used in this section, "eligible property" means property owned by a veteran
852 claimant that is:

- 853 (a) the veteran claimant's primary residence; or
- 854 (b) tangible personal property that:
 - 855 (i) is held exclusively for personal use; and
 - 856 (ii) is not used in a trade or business.

857 (2) In accordance with this part, the amount of taxable value of eligible property
858 described in Subsection (3) or (4) is exempt from taxation if the eligible property is owned by a
859 veteran claimant.

860 (3) (a) Except as provided in Subsection (4) and in accordance with this Subsection (3),
861 the amount of taxable value of eligible property that is exempt under Subsection (2) is equal to
862 the percentage of disability described in the statement of disability multiplied by the adjusted

863 taxable value limit.

864 (b) The amount of an exemption calculated under Subsection (3)(a) may not exceed the
865 taxable value of the eligible property.

866 (c) A county shall consider a veteran with a disability to have a 100% disability,
867 regardless of the percentage of disability described on the statement of disability, if the United
868 States Department of Veterans Affairs certifies the veteran in the classification of individual
869 unemployability.

870 (d) A county may not allow an exemption claimed under this section if the percentage
871 of disability listed on the statement of disability is less than 10%.

872 (4) The amount of taxable value of eligible property that is exempt under Subsection
873 (2) is equal to the total taxable value of the veteran claimant's eligible property if the property
874 is owned by:

875 (a) the unmarried surviving spouse of a veteran who was killed in action or died in the
876 line of duty;

877 (b) a minor orphan of a veteran who was killed in action or died in the line of duty; or

878 (c) the unmarried surviving spouse or minor orphan of a deceased veteran with a
879 disability:

880 (i) who served in the military service of the United States or the state prior to January
881 1, 1921; and

882 (ii) whose percentage of disability described in the statement of disability is 10% or
883 more.

884 (5) For purposes of this section and Section 59-2-1904, an individual who received an
885 honorable or general discharge from military service of an active component of the United
886 States Armed Forces or a reserve component of the United States Armed Forces:

887 (a) is presumed to be a citizen of the United States; and

888 (b) may not be required to provide additional proof of citizenship to establish that the
889 individual is a citizen of the United States.

890 (6) The Department of Veterans and Military Affairs created in Section [71-8-2]
891 71A-1-201 shall, through an informal hearing held in accordance with Title 63G, Chapter 4,
892 Administrative Procedures Act, resolve each dispute arising under this section concerning an
893 individual's status as a veteran with a disability.

894 Section 13. Section **59-10-103** is amended to read:

895 **59-10-103. Definitions.**

896 (1) As used in this chapter:

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

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

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

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

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

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

914 (b) "Corporation" includes:

915 (i) an association;

916 (ii) a joint stock company; and

917 (iii) an insurance company.

918 (c) "COVID-19" means:

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

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

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

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

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

- 925 (g) "Federal taxable income":
926 (i) for a resident or nonresident individual, means taxable income as defined by Section
927 63, Internal Revenue Code; or
928 (ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and
929 (b), Internal Revenue Code.
- 930 (h) "Fiduciary" means:
931 (i) a guardian;
932 (ii) a trustee;
933 (iii) an executor;
934 (iv) an administrator;
935 (v) a receiver;
936 (vi) a conservator; or
937 (vii) any person acting in any fiduciary capacity for any individual.
- 938 (i) "Guaranteed annuity interest" means the same as that term is defined in 26 C.F.R.
939 Sec. 1.170A-6(c)(2).
- 940 (j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the
941 homesteaded land that was held to have been diminished from the Uintah and Ouray
942 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).
- 943 (k) "Individual" means a natural person and includes aliens and minors.
- 944 (l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all
945 or part of the trust without the consent of a person who has a substantial beneficial interest in
946 the trust and the interest would be adversely affected by the exercise of the settlor's power to
947 revoke or terminate all or part of the trust.
- 948 (m) "Military service" means the same as that term is defined in Pub. L. No. 108-189,
949 Sec. 101.
- 950 (n) "Nonresident individual" means an individual who is not a resident of this state.
- 951 (o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a
952 resident estate or trust.
- 953 (p) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other
954 unincorporated organization:
955 (A) through or by means of which any business, financial operation, or venture is

- 956 carried on; and
- 957 (B) that is not, within the meaning of this chapter, a trust, an estate, or a corporation.
- 958 (ii) "Partnership" does not include any organization not included under the definition of
959 "partnership" in Section 761, Internal Revenue Code.
- 960 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or
961 organization described in Subsection (1)(p)(i).
- 962 (q) "Pass-through entity" means the same as that term is defined in Section
963 59-10-1402.
- 964 (r) "Pass-through entity taxpayer" means the same as that term is defined in Section
965 59-10-1402.
- 966 (s) "Qualified nongrantor charitable lead trust" means a trust:
- 967 (i) that is irrevocable;
- 968 (ii) that has a trust term measured by:
- 969 (A) a fixed term of years; or
- 970 (B) the life of a person living on the day on which the trust is created;
- 971 (iii) under which:
- 972 (A) a portion of the value of the trust assets is distributed during the trust term:
- 973 (I) to an organization described in Section 170(c), Internal Revenue Code; and
- 974 (II) as a guaranteed annuity interest or a unitrust interest; and
- 975 (B) assets remaining in the trust at the termination of the trust term are distributed to a
976 beneficiary:
- 977 (I) designated in the trust; and
- 978 (II) that is not an organization described in Section 170(c), Internal Revenue Code;
- 979 (iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue
980 Code; and
- 981 (v) under which the grantor of the trust is not treated as the owner of any portion of the
982 trust for federal income tax purposes.
- 983 (t) "Resident individual" means an individual who is domiciled in this state for any
984 period of time during the taxable year, but only for the duration of the period during which the
985 individual is domiciled in this state.
- 986 (u) "Resident estate" or "resident trust" means the same as that term is defined in

987 Section 75-7-103.

988 (v) "[~~Servicemember~~] Service member" means the same as that term is defined in Pub.
989 L. No. 108-189, Sec. 101.

990 (w) "State income tax percentage for a nonresident estate or trust" means a percentage
991 equal to a nonresident estate's or trust's state taxable income for the taxable year divided by the
992 nonresident estate's or trust's total adjusted gross income for that taxable year after making the
993 adjustments required by:

994 (i) Section 59-10-202;

995 (ii) Section 59-10-207;

996 (iii) Section 59-10-209.1; or

997 (iv) Section 59-10-210.

998 (x) "State income tax percentage for a nonresident individual" means a percentage
999 equal to a nonresident individual's state taxable income for the taxable year divided by the
1000 difference between:

1001 (i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross
1002 income for that taxable year, after making the:

1003 (A) additions and subtractions required by Section 59-10-114; and

1004 (B) adjustments required by Section 59-10-115; and

1005 (ii) if the nonresident individual described in Subsection (1)(x)(i) is a [~~servicemember~~]
1006 service member, the compensation the [~~servicemember~~] service member receives for military
1007 service if the [~~servicemember~~] service member is serving in compliance with military orders.

1008 (y) "State income tax percentage for a part-year resident individual" means, for a
1009 taxable year, a fraction:

1010 (i) the numerator of which is the sum of:

1011 (A) subject to Section 59-10-1404.5, for the time period during the taxable year that the
1012 part-year resident individual is a resident, the part-year resident individual's total adjusted gross
1013 income for that time period, after making the:

1014 (I) additions and subtractions required by Section 59-10-114; and

1015 (II) adjustments required by Section 59-10-115; and

1016 (B) for the time period during the taxable year that the part-year resident individual is a
1017 nonresident, an amount calculated by:

1018 (I) determining the part-year resident individual's adjusted gross income for that time
1019 period, after making the:

1020 (Aa) additions and subtractions required by Section 59-10-114; and
1021 (Bb) adjustments required by Section 59-10-115; and

1022 (II) calculating the portion of the amount determined under Subsection (1)(y)(i)(B)(I)
1023 that is derived from Utah sources in accordance with Section 59-10-117; and

1024 (ii) the denominator of which is the difference between:

1025 (A) the part-year resident individual's total adjusted gross income for that taxable year,
1026 after making the:

1027 (I) additions and subtractions required by Section 59-10-114; and
1028 (II) adjustments required by Section 59-10-115; and

1029 (B) if the part-year resident individual is a [~~servicemember~~] service member, any
1030 compensation the [~~servicemember~~] service member receives for military service during the
1031 portion of the taxable year that the [~~servicemember~~] service member is a nonresident if the
1032 [~~servicemember~~] service member is serving in compliance with military orders.

1033 (z) "Taxable income" or "state taxable income":

1034 (i) subject to Section 59-10-1404.5, for a resident individual, means the resident
1035 individual's adjusted gross income after making the:

1036 (A) additions and subtractions required by Section 59-10-114; and
1037 (B) adjustments required by Section 59-10-115;

1038 (ii) for a nonresident individual, is an amount calculated by:

1039 (A) determining the nonresident individual's adjusted gross income for the taxable
1040 year, after making the:

1041 (I) additions and subtractions required by Section 59-10-114; and
1042 (II) adjustments required by Section 59-10-115; and

1043 (B) calculating the portion of the amount determined under Subsection (1)(z)(ii)(A)
1044 that is derived from Utah sources in accordance with Section 59-10-117;

1045 (iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and
1046 (iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.

1047 (aa) "Taxpayer" means any of the following that has income subject in whole or part to
1048 the tax imposed by this chapter:

- 1049 (i) an individual;
- 1050 (ii) an estate, a trust, or a beneficiary of an estate or a trust that is not a pass-through
1051 entity or a pass-through entity taxpayer;
- 1052 (iii) a pass-through entity; or
- 1053 (iv) a pass-through entity taxpayer.
- 1054 (bb) "Trust term" means a time period:
- 1055 (i) beginning on the day on which a qualified nongrantor charitable lead trust is
1056 created; and
- 1057 (ii) ending on the day on which the qualified nongrantor charitable lead trust described
1058 in Subsection (1)(bb)(i) terminates.
- 1059 (cc) "Uintah and Ouray Reservation" means the lands recognized as being included
1060 within the Uintah and Ouray Reservation in:
- 1061 (i) Hagen v. Utah, 510 U.S. 399 (1994); and
- 1062 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).
- 1063 (dd) "Unadjusted income" means an amount equal to the difference between:
- 1064 (i) the total income required to be reported by a resident or nonresident estate or trust
1065 on the resident or nonresident estate's or trust's federal income tax return for estates and trusts
1066 for the taxable year; and
- 1067 (ii) the sum of the following:
- 1068 (A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:
- 1069 (I) for administering the resident or nonresident estate or trust; and
- 1070 (II) that the resident or nonresident estate or trust deducts as allowed on the resident or
1071 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
1072 year;
- 1073 (B) the income distribution deduction that a resident or nonresident estate or trust
1074 deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or
1075 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
1076 year;
- 1077 (C) the amount that a resident or nonresident estate or trust deducts as a deduction for
1078 estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as
1079 allowed on the resident or nonresident estate's or trust's federal income tax return for estates

1080 and trusts for the taxable year; and

1081 (D) the amount that a resident or nonresident estate or trust deducts as a personal
1082 exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or
1083 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
1084 year.

1085 (ee) "Unitrust interest" means the same as that term is defined in 26 C.F.R. Sec.
1086 1.170A-6(c)(2).

1087 (ff) "Ute tribal member" means an individual who is enrolled as a member of the Ute
1088 Indian Tribe of the Uintah and Ouray Reservation.

1089 (gg) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

1090 (hh) "Wages" means the same as that term is defined in Section [59-10-401](#).

1091 (2) (a) Any term used in this chapter has the same meaning as when used in
1092 comparable context in the laws of the United States relating to federal income taxes unless a
1093 different meaning is clearly required.

1094 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall
1095 mean the Internal Revenue Code or other provisions of the laws of the United States relating to
1096 federal income taxes that are in effect for the taxable year.

1097 (c) Any reference to a specific section of the Internal Revenue Code or other provision
1098 of the laws of the United States relating to federal income taxes shall include any
1099 corresponding or comparable provisions of the Internal Revenue Code as amended,
1100 redesignated, or reenacted.

1101 Section 14. Section **71A-1-101**, which is renumbered from Section 71-8-1 is
1102 renumbered and amended to read:

1103 **TITLE 71A. VETERANS AND MILITARY AFFAIRS**

1104 **CHAPTER 1. VETERANS AND MILITARY AFFAIRS**

1105 **Part 1. General Provisions**

1106 ~~[71-8-1]~~. **71A-1-101. Veterans and Military Affairs -- Definitions.**

1107 As used in this title:

1108 (1) "Armed forces" means the same as that term is defined in Section [68-3-12.5](#)

1109 (2) "Contractor" means a person who is or may be awarded a government entity

1110 contract.

1111 ~~[(2)]~~ (3) "Council" means the Veterans Advisory Council.

1112 ~~[(3)]~~ (4) "Department" means the Department of Veterans and Military Affairs.

1113 ~~[(4)]~~ (5) "Executive director" means the executive director of the Department of
1114 Veterans and Military Affairs.

1115 ~~[(5)]~~ (6) "Government entity" means the state and any county, municipality, local
1116 district, special service district, and any other political subdivision or administrative unit of the
1117 state, including state institutions of education.

1118 (7) "Service member" means a currently serving member of the armed forces.

1119 ~~[(6)]~~ "Specialist" means a full-time employee of a government entity who is tasked with
1120 responding to, and assisting, veterans who are employed by the entity or come to the entity for
1121 assistance.]

1122 ~~[(7)]~~ (8) "Uniformed services" means the same as that term is defined in Section
1123 [68-3-12.5](#).

1124 (9) "VA" means the United States Department of Veterans Affairs.

1125 (10) "Veteran" ~~[has]~~ means the same ~~[meaning]~~ as that term is defined in Section
1126 [68-3-12.5](#).

1127 (11) "Veterans service organization" means an organization or individual accredited by
1128 the VA Office of General Counsel or recognized by the department whose purpose is to serve
1129 service members and veterans, their spouses, surviving spouses, and children.

1130 Section 15. Section **71A-1-201** is enacted to read:

Part 2. Department of Veterans and Military Affairs

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

Appointment of executive director -- Department responsibilities.

1134 (1) There is created the Department of Veterans and Military Affairs.

1135 (2) The governor shall appoint an executive director for the department who is subject
1136 to Senate confirmation.

1137 (3) The executive director shall be a veteran.

1138 (4) The department shall:

1139 (a) conduct and supervise all veteran and military affairs activities as provided in this
1140 title;

1141 (b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative

1142 Rulemaking Act, to carry out the provisions of this title;

1143 (c) in accordance with Section [41-1a-418](#);

1144 (i) determine which campaign or combat theater awards are eligible for a special group
1145 license plate;

1146 (ii) verify that an applicant for a campaign or combat theater award special group
1147 license plate is qualified to receive it; and

1148 (iii) provide an applicant that qualifies a form indicating the campaign or combat
1149 theater award special group license plate for which the applicant qualifies;

1150 (d) maintain liaison with local, state, and federal veterans agencies and with Utah
1151 veterans organizations;

1152 (e) provide current information to veterans, service members, their surviving spouses
1153 and family members, and Utah veterans and military organizations on benefits they are entitled
1154 to;

1155 (f) assist veterans, service members, and their families in applying for benefits and
1156 services;

1157 (g) cooperate with other state entities in the receipt of information to create and
1158 maintain a record of veterans in Utah;

1159 (h) create and administer a veterans assistance registry in accordance with Chapter 5,
1160 Veterans Assistance Registry, with recommendations from the council, that provides contact
1161 information to the qualified donors of materials and labor for certain qualified recipients;

1162 (i) identify military-related issues, challenges, and opportunities, and develop plans for
1163 addressing them;

1164 (j) develop, coordinate, and maintain relationships with military leaders of Utah
1165 military installations, including the Utah National Guard; and

1166 (k) develop and maintain relationships with military-related organizations in Utah.

1167 (5) (a) The department may award grants for the purpose of supporting veteran and
1168 military outreach, employment, education, healthcare, homelessness prevention, and
1169 recognition events.

1170 (b) The department may award a grant described in Subsection (4)(a) to:

1171 (i) an institution of higher education listed in Section [53B-1-102](#);

1172 (ii) a nonprofit organization involved in veterans or military-related activities; or

- 1173 (iii) a political subdivision of the state.
- 1174 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1175 department shall make rules for the administration of grants, including establishing:
- 1176 (i) the form and process for submitting an application to the department;
- 1177 (ii) the method and criteria for selecting a grant recipient;
- 1178 (iii) the method and formula for determining a grant amount; and
- 1179 (iv) the reporting requirements of a grant recipient.
- 1180 (6) Nothing in this chapter shall be construed as altering or preempting any provisions
- 1181 of Title 39A, National Guard and Militia Act, as specifically related to the Utah National
- 1182 Guard.
- 1183 Section 16. Section 71A-1-202 is enacted to read:
- 1184 **71A-1-202. Department of Veterans and Military Affairs -- Executive director --**
- 1185 **Responsibilities.**
- 1186 (1) The executive director is the chief administrative officer of the department.
- 1187 (2) The executive director is responsible for:
- 1188 (a) the administration and supervision of the department;
- 1189 (b) the coordination of policies and program activities conducted through the
- 1190 department;
- 1191 (c) the development and approval of the proposed budget of the department;
- 1192 (d) preparing an annual report for presentation not later than November 30 of each year
- 1193 to the Government Operations Interim Committee which covers:
- 1194 (i) services provided to veterans, service members, and their families;
- 1195 (ii) services provided by third parties through the Veterans Assistance Registry;
- 1196 (iii) coordination of veterans services by government entities with the department; and
- 1197 (iv) the status of military missions within the state;
- 1198 (e) advising the governor on matters pertaining to veterans and military affairs
- 1199 throughout the state, including active duty service members, reserve duty service members,
- 1200 veterans, and their families;
- 1201 (f) developing, coordinating, and maintaining relationships with Utah's congressional
- 1202 delegation and appropriate federal agencies; and
- 1203 (g) entering into grants, contracts, agreements, and interagency transfers necessary to

1204 support the department's programs.

1205 (3) The executive director may appoint deputy directors to assist the executive director
1206 in carrying out the department's responsibilities.

1207 Section 17. Section **71A-1-301**, which is renumbered from Section 71-8-4 is
1208 renumbered and amended to read:

1209 **Part 3. Veterans Advisory Council**

1210 ~~[71-8-4].~~ **71A-1-301. Veterans Advisory Council -- Membership -- Duties and**
1211 **responsibilities -- Per diem and travel expenses.**

1212 (1) There is created a Veterans Advisory Council whose purpose is to advise the
1213 executive director of the Department of Veterans and Military Affairs on issues relating to
1214 veterans.

1215 (2) The council shall consist of the following 14 members:

1216 (a) 11 voting members to serve four-year terms:

1217 (i) seven veterans at large appointed by the governor;

1218 (ii) the commander or the commander's designee, whose terms shall last for as long as
1219 ~~[they hold]~~ the commander holds that office, from each of the following organizations:

1220 (A) Veterans of Foreign Wars;

1221 (B) American Legion; and

1222 (C) Disabled American Veterans; and

1223 (iii) a representative from the Office of the Governor; and

1224 (b) three nonvoting members:

1225 (i) the executive director ~~[of the Department of Veterans and Military Affairs];~~

1226 (ii) the director of the VA Health Care System or ~~[his]~~ the director's designee; and

1227 (iii) the director of the VA Benefits Administration Regional Office in Salt Lake City,
1228 or ~~[his]~~ the director's designee.

1229 (3) (a) Except as required by Subsection (3)(b), as terms of current council members
1230 expire, the governor shall appoint each new or reappointed member to a four-year term
1231 commencing on July 1.

1232 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
1233 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1234 council members are staggered so that approximately half of the members appointed by the

1235 governor are appointed every two years.

1236 (4) When a vacancy occurs in the membership for any reason, the governor shall
1237 appoint a replacement for the unexpired term within 60 days of receiving notice.

1238 (5) Members appointed by the governor may not serve more than three consecutive
1239 terms.

1240 (6) (a) Any veterans group or veteran may provide the executive director with a list of
1241 recommendations for members on the council.

1242 (b) The executive director shall provide the governor with the list of recommendations
1243 for members to be appointed to the council.

1244 (c) The governor shall make final appointments to the council by June 30 of any year in
1245 which appointments are to be made under this chapter.

1246 (7) The council shall elect a chair and vice chair from among the council members
1247 every two years. The chair and vice chair shall each be ~~[an individual who:]~~ a veteran.

1248 ~~[(a) has served on active duty in the armed forces for more than 180 consecutive days;]~~

1249 ~~[(b) was a member of a reserve component who served in a campaign or expedition for
1250 which a campaign medal has been authorized; or]~~

1251 ~~[(c) incurred an actual service-related injury or disability in the line of duty, whether or
1252 not that person completed 180 consecutive days of active duty; and]~~

1253 ~~[(d) was separated or retired under honorable conditions.]~~

1254 (8) (a) The council shall meet at least once every quarter.

1255 (b) The executive director ~~[of the Department of Veterans and Military Affairs]~~ may
1256 convene additional meetings, as necessary.

1257 (9) The department shall provide staff to the council.

1258 (10) Six voting members are a quorum for the transaction of business.

1259 ~~[(11) The council shall:]~~

1260 ~~[(a) solicit input concerning veterans issues from veterans' groups throughout the
1261 state;]~~

1262 ~~[(b) report issues received to the executive director of the Department of Veterans and
1263 Military Affairs and make recommendations concerning them;]~~

1264 ~~[(c) keep abreast of federal developments that affect veterans locally and advise the
1265 executive director of them;]~~

1266 ~~[(d) approve, by a majority vote, the use of money generated from veterans license~~
1267 ~~plates under Section 41-1a-422 for veterans programs; and]~~

1268 ~~[(e) assist the director in developing guidelines and qualifications for:]~~

1269 ~~[(i) participation by donors and recipients in the Veterans Assistance Registry created~~
1270 ~~in Section 71-12-101; and]~~

1271 ~~[(ii) developing a process for providing contact information between qualified donors~~
1272 ~~and recipients.]~~

1273 ~~[(12)]~~ (11) A member may not receive compensation or benefits for the member's
1274 service, but may receive per diem and travel expenses in accordance with:

1275 (a) Section 63A-3-106;

1276 (b) Section 63A-3-107; and

1277 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
1278 63A-3-107.

1279 Section 18. Section 71A-1-302 is enacted to read:

1280 **71A-1-302. Veterans Advisory Council -- Duties and responsibilities.**

1281 The council shall:

1282 (1) solicit input concerning veterans issues from veterans groups throughout the state;

1283 (2) report issues received to the executive director and make recommendations
1284 concerning them;

1285 (3) keep abreast of federal developments that affect veterans locally and advise the
1286 executive director of them;

1287 (4) approve, by a majority vote, the use of money generated from veterans license
1288 plates under Section 41-1a-422 for veterans programs; and

1289 (5) assist the director in developing guidelines and qualifications for:

1290 (a) participation by donors and recipients in the Veterans Assistance Registry created in
1291 Section 71A-5-102; and

1292 (b) the process for providing contact information between qualified donors and
1293 recipients.

1294 Section 19. Section 71A-2-101, which is renumbered from Section 71-10-1 is
1295 renumbered and amended to read:

1296 **CHAPTER 2. VETERANS PREFERENCE**

1297 ~~[71-10-1].~~ 71A-2-101. Veterans preference -- Definitions.

1298 (1) As used in this chapter:

1299 ~~[(1) "Active duty" means active military duty and does not include active duty for~~
1300 ~~training, initial active duty for training, or inactive duty for training.]~~

1301 ~~[(2)]~~ (a) "Government entity" means the state, any county, municipality, local district,
1302 special service district, or any other political subdivision or administrative unit of the state,
1303 including state institutions of education.

1304 (b) "Individual with a disability" means a veteran or service member who has
1305 established the existence of a service-connected disability or is receiving compensation,
1306 disability retirement benefits, or a pension because of a public statute administered by the VA
1307 or a military department.

1308 ~~[(3)]~~ (c) "Preference eligible" means:

1309 ~~[(a)]~~ (i) any individual who ~~[has served on active duty in the armed forces for more~~
1310 ~~than 180 consecutive days, or was a member of a reserve component who served in a campaign~~
1311 ~~or expedition for which a campaign medal has been authorized and who has been separated~~
1312 ~~under honorable conditions]~~ is a veteran or service member;

1313 ~~[(b)]~~ (ii) ~~[a veteran]~~ an individual with a disability, regardless of the percentage of
1314 disability;

1315 ~~[(c)]~~ (iii) the spouse or ~~[unmarried widow or widower]~~ surviving spouse of a veteran;

1316 ~~[(d)]~~ (iv) a purple heart recipient; or

1317 ~~[(e)]~~ (v) a retired member of the armed forces.

1318 ~~[(4) "Veteran" means the same as that term is defined in Section 68-3-12.5.]~~

1319 ~~[(5) "Veteran with a disability" means an individual who has:]~~

1320 ~~[(a) been separated or retired from the armed forces under honorable conditions; and]~~

1321 ~~[(b) established the existence of a service-connected disability or is receiving~~
1322 ~~compensation, disability retirement benefits, or pension because of a public statute~~
1323 ~~administered by the federal Department of Veterans Affairs or a military department.]~~

1324 (2) Terms defined in Section 71A-1-101 apply to this chapter.

1325 Section 20. Section 71A-2-102, which is renumbered from Section 71-10-2 is
1326 renumbered and amended to read:

1327 ~~[71-10-2].~~ 71A-2-102. Veterans preference.

1328 (1) Each government entity shall grant a veterans preference upon initial ~~[hiring]~~
1329 application to each preference eligible ~~[veteran or preference eligible spouse]~~ individual
1330 according to the procedures and requirements of this chapter.

1331 (2) The personnel or human resource officer of any government entity shall add to the
1332 score of a preference eligible who receives a passing score on an examination, or any rating or
1333 ranking mechanism used in selecting an individual for any career service position with the
1334 government entity:

1335 (a) 5% of the total possible score, if the preference eligible is a veteran or service
1336 member;

1337 (b) 10% of the total possible score, if the preference eligible is a veteran or service
1338 member with a disability or a purple heart recipient; or

1339 (c) in the case of a preference eligible spouse~~[, widow, or widower]~~ or surviving
1340 spouse, the same percentage the qualifying veteran or service member is, or would have been,
1341 entitled to.

1342 (3) A preference eligible who applies for a position that does not require an
1343 examination, or where examination results are other than a numeric score, shall be given
1344 preference in interviewing ~~[and hiring]~~ for the position.

1345 (4) Preference eligibility shall be added to a minimum of one step in the process.

1346 (5) The granting of a veterans preference by a government entity in accordance with
1347 this chapter is not a violation of:

1348 (a) Title 34A, Chapter 5, Utah Antidiscrimination Act; or

1349 (b) any other state or local equal employment opportunity law.

1350 Section 21. Section **71A-2-103**, which is renumbered from Section 71-10-3 is
1351 renumbered and amended to read:

1352 ~~[71-10-3].~~ **71A-2-103. Veterans preference -- Willful failure to give preference**
1353 **a misdemeanor.**

1354 (1) [Any officers, agents, or representatives] An officer, agent, or representative of a
1355 government entity who is charged with employment of people [and who] may not willfully
1356 [fails] fail to give preference as provided in this chapter.

1357 (2) Willful failure to extend veterans preference to an applicant is [guilty of] a class B
1358 misdemeanor.

1359 Section 22. Section **71A-3-101**, which is renumbered from Section 71-9-1 is
 1360 renumbered and amended to read:

1361 **CHAPTER 3. VETERANS SERVICE ORGANIZATIONS**
 1362 **ASSISTANCE CONTRACTS**

1363 ~~[71-9-1].~~ **71A-3-101. Veterans service organizations assistance contracts --**
 1364 **Contract to provide assistance to service members, veterans and their spouses, surviving**
 1365 **spouses, and children.**

1366 The [~~Department of Veterans and Military Affairs~~] department is authorized to contract
 1367 with [~~the American Legion, the Disabled American Veterans, and the Veterans of Foreign~~
 1368 ~~Wars of the United States, as]~~ a veterans service organization organized in this state[;] to
 1369 provide, especially in the outlying areas of the state, assistance to service members, veterans,
 1370 their [~~widows~~] spouses, surviving spouses, and children as follows:

1371 (1) [~~to~~] disseminate information regarding all laws applicable [~~to veterans, their~~
 1372 ~~widows, and children~~] in the preparation, presentation, and prosecution of claims against the
 1373 United States arising by reason of service in the [~~military, naval, or air services~~] uniformed
 1374 services;

1375 (2) [~~to~~] assist [~~veterans, their widows, and children~~] in the establishment of all rights
 1376 and the procurement of all benefits which may accrue to [~~them~~] eligible individuals under the
 1377 laws of this state or of the United States;

1378 (3) [~~to~~] cooperate with any and all agencies and instrumentalities of this state or of the
 1379 United States having to do with [~~the~~] employment or reemployment [~~of veterans~~];

1380 (4) [~~to~~] cooperate with any and all agencies and instrumentalities of this state or of the
 1381 United States and make a representative and information available on a rotating basis in the
 1382 outlying areas of the state;

1383 (5) [~~to~~] assist [~~veterans~~] eligible individuals in obtaining [~~such~~] any preference for
 1384 employment [~~as may be~~] authorized by the laws of this state or of the United States; and

1385 (6) [~~to~~] assist [~~veterans, their widows, and children~~] eligible individuals in obtaining
 1386 emergency relief, and [~~to that end~~] cooperate with [~~such~~] any agencies and instrumentalities of
 1387 this state or of the United States [~~as have been or may be~~] established for the purpose of
 1388 extending emergency relief.

1389 Section 23. Section **71A-3-102**, which is renumbered from Section 71-9-2 is

1390 renumbered and amended to read:

1391 ~~[71-9-2]~~. 71A-3-102. **Veterans service organizations assistance contracts --**
1392 **Contracts subject to appropriation of funds.**

1393 Any contract entered into under Section ~~[71-9-1]~~ 71A-3-101 shall expressly state that it
1394 is subject to the appropriation of sufficient funds by the Legislature to carry out its terms and
1395 that the decision of the executive director ~~[of the Department of Veterans and Military Affairs]~~
1396 as to whether an appropriation is sufficient to carry out the terms of the contract is conclusive.

1397 Section 24. Section **71A-3-103**, which is renumbered from Section 71-9-5 is
1398 renumbered and amended to read:

1399 ~~[71-9-5]~~. 71A-3-103. **Veterans service organizations assistance contracts --**
1400 **Attorney general to represent state concerning contracts.**

1401 The attorney general shall represent the state in all proceedings involving any contract
1402 entered into under ~~[section 71-9-1]~~ Section 71A-3-101, and shall ~~[render]~~ provide any legal
1403 assistance necessary in carrying out the provisions of that section.

1404 Section 25. Section **71A-4-101**, which is renumbered from Section 71-13-102 is
1405 renumbered and amended to read:

1406 **CHAPTER 4. VETERANS BENEFITS APPLICATION ASSISTANCE ACT**

1407 ~~[71-13-102]~~. 71A-4-101. **Veterans Benefits Application Assistance Act --**
1408 **Definitions.**

1409 (1) As used in this chapter:

1410 ~~[(1)]~~ (a) "Accredited" means a veterans service organization representative, agent, or
1411 attorney to whom authority has been granted by the VA to provide assistance to claimants in
1412 the preparation, presentation, and prosecution of claims for VA benefits.

1413 ~~[(2)]~~ (b) "Assistance" means an accredited individual providing claimant-specific
1414 recommendations or preparing or submitting an application for VA benefits on behalf of a
1415 claimant.

1416 ~~[(3)]~~ (c) "Certify" means to submit in writing to a veteran or the veteran's dependents
1417 certain disclosure forms provided by the department.

1418 ~~[(4)]~~ (d) "Claimant" means a person who has filed or has expressed to a service
1419 organization representative, agent, or attorney an intention to file a written application for
1420 determination of entitlement to benefits provided under United States Code, Title 38, and

1421 implementing directives.

1422 [~~(5)~~ "Department" means the Department of Veterans and Military Affairs.]

1423 [~~(6)~~ "Executive director" means the executive director of the Department of Veterans
1424 and Military Affairs.]

1425 [(7)] (e) "Non-compliant referral" means referring a veteran's or a veteran's dependent's
1426 original claim for veteran benefits for assistance to an individual who is in violation of the
1427 provisions of this chapter.

1428 [(8)] (f) "Referring entity" means an individual, business, or organization licensed in
1429 this state who refers or assists a veteran or a veteran's dependents for assistance with an
1430 original claim for veteran benefits.

1431 [(9)] "VA" means the United States Department of Veterans Affairs.]

1432 [(10)] (g) "VA benefits" means any payment, service, commodity, function, or status
1433 entitlement which is determined under laws administered by the VA pertaining to veterans,
1434 dependents, and survivors as well as other potential beneficiaries under United States Code,
1435 Title 38.

1436 [(11)] (h) "Veteran" includes all eligible dependents.

1437 (2) Terms defined in Section 71A-1-101 apply to this chapter.

1438 Section 26. Section ~~71A-4-102~~, which is renumbered from Section 71-13-103 is
1439 renumbered and amended to read:

1440 [~~71-13-103~~]. 71A-4-102. Veterans Benefits Application Assistance Act --

1441 **Disclosure requirement for assisting a claimant.**

1442 (1) Each [person] individual offering to assist veterans in applying for benefits shall:

1443 (a) be accredited, in compliance with the provisions of C.F.R., Title 38, Pensions,
1444 Bonuses, and Veterans' Relief, or, if under the supervision of an accredited attorney meet the
1445 provisions of C.F.R., Title 38, pertaining to authorized claim representation under an attorney;
1446 and

1447 (b) disclose in writing, in a format approved by the department that the claimant can
1448 retain, the federal laws, regulations, and rules governing assistance for VA benefits.

1449 (2) The disclosure required by Subsection (1)(b) shall specifically include:

1450 (a) the individual's:

1451 (i) name;

1452 ~~[(b)]~~ (ii) ~~[the individual's]~~ business address;
 1453 ~~[(c)]~~ (iii) ~~[the individual's]~~ business phone number; and
 1454 ~~[(d)]~~ (iv) the ~~[individual's]~~ registration number from the VA;
 1455 ~~[(e)]~~ (b) a statement of the claimant's rights regarding the assistance for VA benefits,
 1456 including that there is no charge to the claimant or a member of the claimant's family for
 1457 assistance with the initial benefits application; and
 1458 ~~[(f)]~~ (c) a statement that if, as a result of the individual providing assistance for a claim,
 1459 income is accrued to the assisting individual from the sale of a product or other services to the
 1460 claimant, the income is both justified and reasonable as compared with income from similar
 1461 products and services available in the state.

1462 (3) No provisions of the form may be struck out or designated as nonapplicable.

1463 (4) Disclosure forms, when completed, shall be:

1464 (a) signed by both the individual providing assistance and the claimant; and

1465 (b) retained for three years by the assisting individual.

1466 (5) Copies of the disclosure form shall be provided to:

1467 (a) the veteran on the day the form is completed and signed; and

1468 (b) the department within five working days.

1469 Section 27. Section **71A-4-103**, which is renumbered from Section 71-13-104 is
 1470 renumbered and amended to read:

1471 ~~[71-13-104].~~ **71A-4-103. Veterans Benefits Application Assistance Act --**

1472 **Education requirements.**

1473 (1) All individuals and attorneys providing assistance to a veteran shall complete three
 1474 hours of qualifying education as specified in 38 C.F.R. 14.629(b) during the first 12 month
 1475 period following the date of initial accreditation~~[, and]~~.

1476 (2) ~~[an]~~ An additional three hours of qualifying continuing education shall be
 1477 completed every two years following the initial 12-month period.

1478 Section 28. Section **71A-4-104**, which is renumbered from Section 71-13-105 is
 1479 renumbered and amended to read:

1480 ~~[71-13-105].~~ **71A-4-104. Veterans Benefits Application Assistance Act --**

1481 **Department responsibilities -- Notification -- Assistance -- Complaints -- Claimant**
 1482 **responsibilities.**

1483 (1) The [~~Department of Veterans and Military Affairs~~] department shall notify in
1484 writing each veteran for whom the department has contact information that any individual or
1485 business offering to assist veterans in applying for benefits shall disclose in writing to the
1486 veteran the following:

1487 (a) 38 C.F.R. 14.629 and 38 C.F.R. 14.630 require that any individual providing
1488 assistance be accredited by the VA;

1489 (b) federal law restricts charging a veteran a fee for assisting in the initial application
1490 for VA benefits; and

1491 (c) the department's website has a list with contact information of VA accredited claim
1492 representatives.

1493 (2) Beginning July 1, 2015, and every three years after the department shall:

1494 (a) notify the Insurance Department regarding the federal law governing assistance for
1495 VA benefits, and the Insurance Department shall notify all individual producers and
1496 consultants licensed by the Insurance Department at the time of initial licensing and upon
1497 license renewal of those same federal laws governing assistance for VA benefits;

1498 (b) contact the Utah State Bar regarding federal law governing legal assistance for
1499 claimants applying for benefits and request that the association provide continuing legal
1500 education on federal laws governing assistance; and

1501 (c) notify the Department of Health and Human Services regarding federal law
1502 governing the assistance for claimants applying for benefits, and require the Department of
1503 Health [~~shall~~] and Human Services to notify all assisted living and nursing care facilities of
1504 those federal laws.

1505 (3) The executive director may establish procedures for processing complaints related
1506 to assistance regarding a claim for VA benefits.

1507 (4) For violations by accredited or non-accredited individuals who offer assistance with
1508 VA benefits, the executive director may audit selected assisting individuals and referring
1509 entities for compliance with this chapter and federal laws which govern the provision of
1510 assistance to claimants.

1511 Section 29. Section **71A-4-105**, which is renumbered from Section 71-13-106 is
1512 renumbered and amended to read:

1513 [~~71-13-106~~]. **71A-4-105. Veterans Benefits Application Assistance Act --**

1514 **Exempt organizations.**

1515 Accredited representatives of the following organizations are exempt from the
1516 provisions of this chapter:

- 1517 (1) American Legion;
- 1518 (2) Veterans of Foreign Wars;
- 1519 (3) Disabled American Veterans;
- 1520 (4) Vietnam Veterans of America;
- 1521 (5) American Veterans (AMVET);
- 1522 (6) Military Order of the Purple Heart; and
- 1523 (7) other VA recognized service organizations or individuals as determined by the
1524 executive director.

1525 Section 30. Section **71A-5-101**, which is renumbered from Section 71-12-102 is
1526 renumbered and amended to read:

1527 **CHAPTER 5. VETERANS ASSISTANCE REGISTRY**

1528 ~~[71-12-102].~~ **71A-5-101. Veterans Assistance Registry -- Definitions.**

1529 (1) As used in this chapter:

1530 [~~(1) "Council" means the Veterans Advisory Council as created in Section 71-8-4.]~~

1531 [~~(2) "Department" means the Department of Veterans and Military Affairs as created in~~
1532 ~~Section 71-8-2.]~~

1533 [~~(3)~~] (a) "Donor" means an individual or entity that provides material goods, services,
1534 or labor without charge to veterans in accordance with this chapter.

1535 [~~(4)~~] (b) "Recipient" means a veteran as defined in Section 68-3-12.5, or a veteran's
1536 dependent spouse and children.

1537 (2) Terms defined in Section 71A-1-101 apply to this chapter.

1538 Section 31. Section **71A-5-102**, which is renumbered from Section 71-12-103 is
1539 renumbered and amended to read:

1540 ~~[71-12-103].~~ **71A-5-102. Veterans Assistance Registry.**

1541 (1) There is created within the department a Veterans Assistance Registry.

1542 (2) The intent of the registry is to provide contact information to qualified donors of
1543 material goods, services, and labor for qualified recipients in need of specific goods, services,
1544 or labor.

- 1545 (3) The department shall, in consultation with the council:
- 1546 (a) create a database of donors and recipients;
- 1547 (b) develop an electronic link on the department's website to the database of donors
1548 and recipients;
- 1549 (c) insure that information provided by donors and recipients is only used for the
1550 intended purpose as specified in Subsection (2) and not made public;
- 1551 (d) provide instructions online for donors and recipients to use in registering for the
1552 registry;
- 1553 (e) publicize through both local and nationwide veterans service organizations and the
1554 [~~United States Department of Veterans Affairs~~] VA the availability of the registry; and
- 1555 (f) track usage of and report annually on the registry program in accordance with
1556 Section [~~71-8-3~~] 71A-1-202.

1557 Section 32. Section **71A-5-103**, which is renumbered from Section 71-12-104 is
1558 renumbered and amended to read:

1559 [~~71-12-104~~]. **71A-5-103. Immunity for use of registry.**

1560 A donor who provides material goods, services, or labor for registry recipients is
1561 considered to be acting on behalf of the department in accordance with the provisions of Title
1562 63G, Chapter 8, Part 2, Immunity for Voluntary Services.

1563 Section 33. Section **71A-6-101**, which is renumbered from Section 71-11-2 is
1564 renumbered and amended to read:

1565 **CHAPTER 6. STATE VETERANS NURSING HOME**

1566 [~~71-11-2~~]. **71A-6-101. State Veterans Nursing Home -- Definitions.**

1567 (1) As used in this chapter:

1568 [(1)] (a) "Administrator" means a [~~Veterans Nursing Home Administrator~~] state
1569 veterans nursing home administrator selected in accordance with Section [~~71-11-5~~] 71A-6-103.

1570 [(2)] (b) "Board" means any [~~Veterans Nursing Home Advisory Board~~] state veterans
1571 nursing home advisory board.

1572 (c) "Home" means any state veterans nursing home.

1573 [(3)] "Department" means the Department of Veterans and Military Affairs created in
1574 Section 71-8-2.]

1575 [(4)] "Executive director" means the executive director of the Department of Veterans

1576 ~~and Military Affairs.]~~

1577 [~~(5) "Home" means any Utah Veterans Nursing Home.~~]

1578 [~~(6) "Veteran" means the same as that term is defined in Section [68-3-12.5](#).~~]

1579 (2) Terms defined in Section [71A-1-101](#) apply to this chapter.

1580 Section 34. Section **71A-6-102**, which is renumbered from Section 71-11-3 is
1581 renumbered and amended to read:

1582 ~~[71-11-3].~~ **71A-6-102. State Veterans Nursing Home -- Establishment and**
1583 **construction -- Compliance with federal requirements.**

1584 (1) The department shall ~~[administer]~~ be responsible for the administration and
1585 operation of state veterans nursing homes established by the Legislature, which may include
1586 contracting with a private health care provider to operate and manage each home.

1587 (2) Each home shall:

1588 (a) have at least an 80-bed capacity;

1589 (b) be designed and constructed consistent with the requirements for federal funding
1590 under 38 U.S.C. Sec. 8131 et seq.; and

1591 (c) be operated consistent with the requirements for per diem payments from the
1592 ~~[United States Department of Veterans Affairs]~~ VA under 38 U.S.C. Sec. 1741 et seq.

1593 Section 35. Section **71A-6-103**, which is renumbered from Section 71-11-5 is
1594 renumbered and amended to read:

1595 ~~[71-11-5].~~ **71A-6-103. State veterans nursing home -- Operation of homes --**
1596 **Rulemaking authority -- Selection of administrator.**

1597 (1) The department shall, subject to the approval of the executive director:

1598 (a) establish appropriate criteria for the admission and discharge of residents for each
1599 home, subject to the requirements in Section ~~[71-11-6]~~ 71A-6-104 and criteria set by the

1600 ~~[United States Department of Veterans Affairs]~~ VA;

1601 (b) establish a schedule of charges for each home in cases where residents have
1602 available resources;

1603 (c) establish standards for the operation of the homes not inconsistent with standards
1604 set by the ~~[United States Department of Veterans Affairs]~~ VA;

1605 (d) make rules to implement this chapter in accordance with Title 63G, Chapter 3, Utah
1606 Administrative Rulemaking Act; and

1607 (e) ensure that the homes are licensed in accordance with Title 26, Chapter 21, Health
1608 Care Facility Licensing and Inspection Act, and 38 U.S.C. Sec. 1742(a).

1609 (2) The department shall~~[, after reviewing recommendations of the board,];~~

1610 (a) appoint an administrator for each home; or

1611 (b) approve the individual selected by the contract health care provider as the
1612 administrator at each home.

1613 Section 36. Section **71A-6-104**, which is renumbered from Section 71-11-6 is
1614 renumbered and amended to read:

1615 ~~[71-11-6].~~ **71A-6-104. State veterans nursing home -- Eligibility -- Admission**
1616 **requirements.**

1617 (1) Application for admission shall be made separately to each nursing home
1618 administrator.

1619 (2) Veterans and their spouses or surviving spouses who are residents of Utah or who
1620 demonstrate intent to establish residency in Utah within six months of applying for admission,
1621 meet federal eligibility requirements, and are in need of nursing home care may be admitted to
1622 any home.

1623 (3) Preference shall be given to veterans who are without adequate means of support
1624 and unable, due to wounds, disease, old age, or infirmity, to properly maintain themselves.

1625 Section 37. Section **71A-6-105**, which is renumbered from Section 71-11-7 is
1626 renumbered and amended to read:

1627 ~~[71-11-7].~~ **71A-6-105. Veterans nursing home -- Advisory boards.**

1628 (1) Each home shall have a nursing home advisory board to act as a liaison between the
1629 residents, members of the public, and the administration of the home.

1630 (2) Each board shall consist of at least seven, but no more than 11, members appointed
1631 as follows by the executive director:

1632 (a) one appointee of the Resident Council of the specific veterans nursing home;

1633 (b) three veterans from the geographic area in which the veterans nursing home is
1634 located;

1635 (c) one medical professional experienced in veteran nursing home quality of care
1636 issues;

1637 (d) three at-large members with an interest in the success of veterans nursing homes;

1638 and

1639 (e) one member each from:

1640 (i) the American Legion;

1641 (ii) Disabled American Veterans; and

1642 (iii) the Veterans of Foreign Wars.

1643 (3) (a) (i) Members shall serve [for] four-year terms.

1644 (ii) Except as required by Subsection (3)(b), as terms of current board members expire,

1645 the executive director shall appoint each new or reappointed member to a four-year term

1646 beginning on July 1.

1647 (b) The executive director shall, at the time of appointment or reappointment, adjust

1648 the length of terms to ensure that the terms of board members are staggered so that

1649 approximately half of the board is appointed every two years.

1650 (c) The executive director shall make final appointments to the board by June 30 of any

1651 year in which appointments are to be made under this chapter.

1652 (4) Vacancies not including the Resident Council representative shall be filled by the

1653 executive director within 60 days of receiving notice of a vacancy, but only for the unexpired

1654 term of the vacated member.

1655 (5) Members may not serve more than two consecutive terms.

1656 (6) Each board shall elect a chair annually from among its members at its first meeting

1657 after July 1.

1658 (7) Each board shall meet at least quarterly.

1659 (8) A majority of the members of the board present constitute a quorum for the

1660 transaction of business.

1661 (9) Each board shall provide copies of all minutes of each meeting to the [~~Department~~

1662 ~~of Veterans and Military Affairs~~] department within 14 days of approval.

1663 (10) A member may not receive compensation or benefits for the member's service, but

1664 may receive per diem and travel expenses in accordance with:

1665 (a) Section 63A-3-106;

1666 (b) Section 63A-3-107; and

1667 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

1668 63A-3-107.

1669 Section 38. Section **71A-6-106**, which is renumbered from Section 71-11-8 is
1670 renumbered and amended to read:

1671 ~~[71-11-8]~~. **71A-6-106. State Veterans Nursing Home Fund.**

1672 (1) There is created an expendable special revenue fund entitled the "Utah State
1673 Veterans Nursing Home Fund" to be administered by the department for the benefit of each
1674 home and its residents.

1675 (2) All cash donations, gifts, or bequests shall be deposited in the fund and used
1676 according to the wishes of the donor.

1677 (3) All funds received by the homes from federal or state agencies, individual
1678 insurance reimbursement, or cash payments shall be deposited in the fund.

1679 (4) Funds received that are designated for a specific home shall be accounted for
1680 separately within the fund.

1681 Section 39. Section **71A-6-107**, which is renumbered from Section 71-11-9 is
1682 renumbered and amended to read:

1683 ~~[71-11-9]~~. **71A-6-107. State veterans nursing home -- Disposition of deceased**
1684 **resident's property.**

1685 (1) (a) All money or other personal property of a resident held by a home that is left on
1686 the premises of the home shall, upon the death of the resident, be held in trust to be paid or
1687 delivered to the spouse, children, grandchildren, or parent of the resident upon the presentation
1688 of proof of relationship.

1689 (b) Any funds of a deceased resident may be disbursed for the payment of funeral
1690 expenses or any obligation owed to the home.

1691 (2) Property owned by a deceased resident of the home who dies without heirs or
1692 next-of-kin not disposed of by will shall become the property of the home and deposited in the
1693 fund, subject to the right of any heir to reclaim the property within five years after the resident's
1694 death upon the presentation of proof of relationship.

1695 Section 40. Section **71A-6-108**, which is renumbered from Section 71-11-10 is
1696 renumbered and amended to read:

1697 ~~[71-11-10]~~. **71A-6-108. State veterans nursing home -- Hobby promotion --**
1698 **Sales of articles manufactured by residents -- Proceeds to residents.**

1699 (1) Each home shall promote hobbies designed to improve the general welfare and

1700 mental condition of the residents.

1701 (2) The home may provide limited funds to initiate a hobby program, but shall limit the
1702 program to those hobbies that, in its judgment, will be self sustaining.

1703 (3) The department may enter into contracts with federal or state agencies or private
1704 concerns for the receipt of articles manufactured by residents of the homes.

1705 (4) Proceeds generated by hobbies shall be used to pay for materials. Any excess
1706 proceeds shall be paid to the individual veterans who produced the articles.

1707 Section 41. Section **71A-7-101**, which is renumbered from Section 71-2-1 is
1708 renumbered and amended to read:

1709 **CHAPTER 7. VETERANS MEMORIALS AND CEMETERIES**

1710 **Part 1. Memorials**

1711 ~~[71-2-1].~~ **71A-7-101. Memorials by cities and towns.**

1712 (1) The boards of city commissioners, city councils, and town boards, respectively,
1713 may appropriate from any fund of the city or town available for general purposes [~~such sums as~~
1714 ~~they may deem~~] amounts considered expedient for the purpose of erecting or contributing to
1715 the erection of[;] a memorial to commemorate the achievements of [~~soldiers, sailors and~~
1716 ~~marines~~] uniformed service members and veterans of the state [~~of Utah in the Great World~~
1717 ~~War, where such memorial is erected~~] within their respective cities or towns.

1718 (2) The city commissioners, city council, or town board may, when authorized by the
1719 qualified electors of [~~such~~] the city or town, issue general obligation bonds [~~of such city or~~
1720 ~~town~~] and devote the proceeds [~~of the same~~] to the erection of [~~such memorial~~] memorials.

1721 Section 42. Section **71A-7-102**, which is renumbered from Section 71-2-2 is
1722 renumbered and amended to read:

1723 ~~[71-2-2].~~ **71A-7-102. Memorials by counties.**

1724 (1) The county legislative body of the several counties may [~~erect~~] raise and maintain,
1725 appropriate money for, and contribute to the [~~erection~~] building and maintenance of, memorials
1726 to the memory of veterans of [~~the several~~] any wars in which the United States of America
1727 participated.

1728 (2) Memorials may be in the form of grave adornments, public buildings, monuments,
1729 recreational areas and facilities, parks, and public places[; ~~provided, that no~~].

1730 (3) A county legislative body may not erect and maintain, assist in, or contribute to, the

1731 erection or maintenance of any memorial which is outside of the boundaries of the county.

1732 Section 43. Section **71A-7-103**, which is renumbered from Section 71-2-3 is
1733 renumbered and amended to read:

1734 ~~[71-2-3].~~ **71A-7-103. County tax for memorials.**

1735 ~~[For the raising of funds with which to carry out the provisions of the next preceding~~
1736 ~~section, and for such use only, the]~~ The county legislative body may levy and collect an annual
1737 tax upon ~~[the]~~ property ~~[situate]~~ situated within the county to raise funds for memorials under
1738 this part.

1739 Section 44. Section **71A-7-201**, which is renumbered from Section 71-7-1 is
1740 renumbered and amended to read:

1741 **Part 2. Veteran Burials**

1742 ~~[71-7-1].~~ **71A-7-201. Veteran burials -- Veterans not to be buried in ground**
1743 **used for paupers.**

1744 The body of ~~[a person]~~ an individual who dies while in the military service of the
1745 United States of America during any period of war, police action, or other period of national
1746 emergency, or the body of any veteran of the military service of the United States of America
1747 who served during any war, police action, or other period of national emergency, ~~[shall]~~ may
1748 not be buried in any portion of any cemetery or burial ground used for the burial of paupers.

1749 Section 45. Section **71A-7-202**, which is renumbered from Section 71-7-2 is
1750 renumbered and amended to read:

1751 ~~[71-7-2].~~ **71A-7-202. Veteran burials -- Political subdivisions may provide**
1752 **proper burial sites.**

1753 ~~[For the purpose of giving effect to this act, cities]~~ Municipalities, towns, counties, or
1754 other political subdivisions of the state ~~[of Utah]~~ may grant burial sites to chartered veterans
1755 organizations without financial consideration ~~[therefor,]~~ or may provide a proper site for the
1756 burial of any persons covered by this ~~[act]~~ chapter without financial consideration.

1757 Section 46. Section **71A-7-203**, which is renumbered from Section 71-7-5 is
1758 renumbered and amended to read:

1759 ~~[71-7-5].~~ **71A-7-203. Veteran burials -- Veterans Remains Organization --**
1760 **Funeral service establishments -- Liability -- State agency -- Responsibilities.**

1761 (1) As used in this section:

1762 (a) "Remains facility" means the same as a funeral service establishment defined in
1763 Section 58-9-102.

1764 (b) "Status information" means a veteran or a veteran's dependent's name, date of birth,
1765 place of birth, date of death, Social Security number, military service number, branch of
1766 service, and military rank on date of death.

1767 (c) "Veterans Remains Organization" means an entity recognized and authorized by the
1768 United States Veterans Administration and the National Personnel Records Center to verify
1769 and inter the unclaimed cremated remains of United States military veterans or a veteran's
1770 dependents.

1771 (2) A veterans remains organization may contact a remains facility for the purpose of
1772 identifying any unclaimed cremated remains of a military veteran or a veteran's dependent.

1773 (a) Upon contact with the remains facility, the organization shall:

1774 (i) provide identifying documentation to the remains facility; and

1775 (ii) with the permission of the remains facility, inventory any unclaimed cremated
1776 remains in order to identify any remains of a veteran or a veteran's dependent.

1777 (b) The organization shall contact the National Personnel Records Center to determine
1778 if any of the unclaimed cremated remains are:

1779 (i) a veteran's or a veteran's dependent's remains; and

1780 (ii) eligible for interment benefits.

1781 (c) The organization shall claim any unclaimed cremated remains from a remains
1782 facility upon providing the facility with proof that the remains are those of a veteran or a
1783 veteran's dependent and are eligible for interment benefits.

1784 (d) The organization shall make arrangements to inter the remains.

1785 (3) A remains facility:

1786 (a) may allow a veterans remains organization, upon presentation of identification, to
1787 inventory unclaimed cremated remains;

1788 (b) shall provide all status information in the remains facility's possession to a veterans
1789 remains organization;

1790 (c) shall release any unclaimed cremated remains to a veterans remains organization
1791 upon presentation of documentation that the remains are of a veteran or a veteran's dependent
1792 who is eligible for burial in a state or national cemetery; and

1793 (d) is not subject to civil liability for release of status information or release of the
 1794 unclaimed cremated remains following the presentation of documentation indicating the
 1795 remains are those of a veteran or a veteran's dependent and eligible for interment benefits.

1796 (4) The [~~Department of Veterans and Military Affairs~~] department shall, upon
 1797 presentation of documentation that certain cremated remains in the possession of a veterans
 1798 remains organization are those of a veteran or a veteran's dependent and eligible for interment
 1799 benefits:

1800 (a) authorize the interment of the cremated remains in a state veterans cemetery; and

1801 (b) provide assistance to the veterans remains organization in the interment process.

1802 Section 47. Section **71A-7-301**, which is renumbered from Section 71-7-3 is
 1803 renumbered and amended to read:

1804 **Part 3. Veterans Cemeteries**

1805 ~~[71-7-3].~~ **71A-7-301. Veterans cemeteries -- Development, operation, and**
 1806 **maintenance -- Responsibilities of Department -- Costs.**

1807 (1) The [~~Department of Veterans and Military Affairs~~] department shall develop,
 1808 operate, and maintain [a] veterans [~~cemetery and memorial park~~] cemeteries.

1809 (2) To help pay the costs of developing, constructing, operating, and maintaining [a]
 1810 veterans [~~cemetery and memorial park~~] cemeteries, the [~~Department of Veterans and Military~~
 1811 ~~Affairs~~] department may:

1812 (a) [~~by following the procedures and requirements of Title 63J, Chapter 5, Federal~~
 1813 ~~Funds Procedures Act,~~] receive federal funds[~~, and may~~] by following the procedures and
 1814 requirements of Title 63J, Chapter 5, Federal Funds Procedures Act;

1815 (b) receive state funds, contributions from veterans organizations, and other private
 1816 donations; and

1817 [~~(b)~~] (c) charge fees for at least the cost of the burial of a veteran's spouse and any
 1818 other persons, [~~whom~~] who the department determines [~~are~~] is eligible to be buried in a
 1819 veterans cemetery established by the state.

1820 [~~(3) "Veteran" has the same meaning as defined in Section 68-3-12.5.~~]

1821 Section 48. Section **71A-8-101**, which is renumbered from Section 39-3-1 is
 1822 renumbered and amended to read:

1823 **CHAPTER 8. EMPLOYEES IN MILITARY SERVICE**

1824 [~~39-3-1~~]. 71A-8-101. Public officers and employees in military service -- Not
1825 **to be prejudiced thereby -- Refusal to reinstate -- Procedure -- Motion -- Hearing and**
1826 **determination.**

1827 (1) As used in this chapter, "public officer" means the same as that term is defined in
1828 Section ~~67-16-3~~.

1829 (2) A [~~public employee,~~] public officer[~~, or legislative employee, as defined in Section~~
1830 ~~67-16-3,~~] who enters state or federal active service in any branch of the armed forces of this
1831 state or of the United States shall be granted a leave of absence not to exceed five years during
1832 that service.

1833 [~~(2)~~] (3) (a) A person entitled to a leave of absence under this section shall be restored
1834 to the same position, or to a position equivalent to the same position, which the person held
1835 immediately prior to the commencement of active military service.

1836 (b) A request for restoration of employment under this section must be submitted
1837 within 40 days after release from active service.

1838 (c) Restoration of employment shall be made within 20 days after submission of the
1839 request to the employer.

1840 (d) A person returning from active military service may not, without cause, be
1841 discharged or subjected to reduction of compensation for a period of one year following a
1842 return to employment under this section.

1843 [~~(3)~~] (4) A person returning to employment under this section:

1844 (a) shall retain all personal, sick, and other leave to which the person was entitled
1845 immediately prior to the commencement of active military service;

1846 (b) shall receive and earn benefits and compensation at a level not less than that to
1847 which the person would have been entitled had the officer or employee not been absent due to
1848 active military service; and

1849 (c) may not be prejudiced, by the preservice employer or that employer's successor in
1850 interest, as to employment, appointment, reappointment, reemployment, or promotion by
1851 reason of the employee's active military service.

1852 [~~(4)~~] (5) (a) [~~No public employee,~~] A public officer[~~, or legislative employee~~] may not
1853 be required to resign from, vacate, or forfeit a governmental office or position as a consequence
1854 of entering into active military service.

1855 (b) A person in active military service is not considered to be holding an office or
1856 position of trust or employment under the United States government for purposes of
1857 determining whether that person is disqualified or prohibited from retaining a position or
1858 serving as a ~~[public employee,]~~ public officer~~[, or legislative employee].~~

1859 (c) Nothing in this section shall serve to extend a period of employment or term of
1860 office beyond that to which the affected person was elected or appointed. A person who is a
1861 legislator or public officer for a specific term by virtue of election or appointment is entitled to
1862 a leave of absence under this section for a period not to exceed the applicable term.

1863 ~~[(5)]~~ (6) A person denied restoration of employment or benefits given under this
1864 ~~[section]~~ chapter may petition the district court of the county in which the person resides, or in
1865 which the denial occurs, to require the public employer to comply with the provisions of this
1866 section without delay. Fees or court costs may not be assessed against the petitioner. The
1867 court shall order a speedy hearing in the case and advance it on the calendar so far as
1868 reasonably possible. If the court determines that the petitioner is entitled to relief, the court
1869 shall order all appropriate relief, to include compensation for loss of wages and benefits and an
1870 award of attorneys' fees and costs.

1871 Section 49. Section **71A-8-102**, which is renumbered from Section 39-3-2 is
1872 renumbered and amended to read:

1873 ~~[39-3-2].~~ **71A-8-102. Employees in military service -- Government employees**
1874 **in United States armed forces or National Guard -- Pay allowance for time spent on duty**
1875 **-- Deduction of vacation time prohibited.**

1876 (1) All state employees who are members of the organized reserve of the United States
1877 armed forces, including the National Guard of this state, shall be allowed full pay for all time
1878 not in excess of 15 days per year spent ~~[on duty at annual encampment or rifle competition or~~
1879 ~~other duties in connection with the reserve training and instruction]~~ fulfilling the service
1880 requirements of the armed forces of the United States, including the National Guard of this
1881 state. This leave shall be in addition to any annual vacation leave with pay to which an
1882 employee may be entitled.

1883 (2) County and municipal employees who are members of the organized reserve of the
1884 United States armed forces, including the National Guard of this state, may be allowed up to
1885 full pay for all time not in excess of 15 days per year spent ~~[on duty at annual encampment or~~

1886 rifle competition or other duties in connection with the reserve training and instruction]
1887 fulfilling the service requirements of the armed forces of the United States, including the
1888 National Guard of this state. This leave is at the discretion of the employing county or
1889 municipality and, if granted, shall be in addition to annual vacation leave with pay.

1890 (3) The governor, counties, and municipal agencies may adopt ordinances, exceptions,
1891 rules, or policies that:

1892 (a) provide more than 15 days of paid military leave;

1893 (b) provide for differential pay that compensates the difference, if any, between the
1894 service member's civilian pay and military pay, not to include allowances; and

1895 (c) extend health, dental, vision, disability, and life insurance benefits to members of
1896 the National Guard and reserves activated for more than 30 days.

1897 Section 50. Section **71A-8-103**, which is renumbered from Section 39-1-64 is
1898 renumbered and amended to read:

1899 **[39-1-64]. 71A-8-103. Employees in military service -- Extension of licenses for**
1900 **members of National Guard and reservists ordered to active duty.**

1901 (1) As used in this section, "license" means any license issued under:

1902 (a) Title 58, Occupations and Professions; and

1903 (b) Section 26-8a-302.

1904 (2) Any license held by a member of the National Guard or reserve component of the
1905 armed forces that expires while the member is on state or federal active duty shall be extended
1906 until 90 days after the member is discharged from active duty status.

1907 (3) The licensing agency shall renew a license extended under Subsection (2) until the
1908 next date that the license expires or for the period that the license is normally issued, at no cost
1909 to the member of the National Guard or reserve component of the armed forces if all of the
1910 following conditions are met:

1911 (a) the National Guard member or reservist requests renewal of the license within 90
1912 days after being discharged;

1913 (b) the National Guard member or reservist provides the licensing agency with a copy
1914 of the member's or reservist's official orders calling the member or reservist to active duty, and
1915 official orders discharging the member or reservist from active duty; and

1916 (c) the National Guard member or reservist meets all the requirements necessary for the

1917 renewal of the license, except the member or reservist need not meet the requirements, if any,
1918 that relate to continuing education or training.

1919 (4) The provisions of this section do not apply to:

1920 (a) regularly scheduled annual training;

1921 (b) in-state active National Guard and reserve orders; or

1922 (c) orders that do not require the service member to relocate outside of this state.

1923 Section 51. Section **71A-8-104**, which is renumbered from Section 39-7-118 is
1924 renumbered and amended to read:

1925 ~~[39-7-118]~~. **71A-8-104. Employees in military service -- Professional liability**
1926 **protection for certain persons ordered to active duty in the armed forces.**

1927 (1) This section applies to a person who:

1928 (a) is ordered to state or federal military service, other than training; and

1929 (b) immediately before receiving the order to military service:

1930 (i) was engaged in the furnishing of health-care services or other services determined
1931 by rule to be professional services; and

1932 (ii) had in effect a professional liability insurance policy that does not continue to cover
1933 claims filed with respect to the service member during the period of the service member's
1934 active duty unless the premiums are paid for coverage for that period.

1935 (2) Coverage of a person referred to in Subsection (1) by a professional liability
1936 insurance policy shall be suspended by the insurance carrier in accordance with Subsection (3)
1937 upon receipt of a written request by the service member.

1938 (3) A professional liability insurance carrier:

1939 (a) may not require that premiums be paid by or on behalf of a service member for any
1940 professional liability insurance coverage suspended pursuant to Subsection (2); and

1941 (b) shall refund any amount paid for coverage for the period of the suspension or, upon
1942 the election of the service member, apply the amount for the payment of any premium
1943 becoming due upon the reinstatement of the coverage.

1944 (4) A professional liability insurance carrier is not liable with respect to any claim that
1945 is based on professional conduct, including any failure to take any action in a professional
1946 capacity of a person that occurs during a period of suspension of that person's professional
1947 liability insurance under this section. For the purposes of the preceding sentence, a claim based

1948 upon the failure of a professional to make adequate provision for patients to be cared for during
1949 the period of the professional's military service is considered an action or failure to take action
1950 before the beginning of the period of suspension of professional liability insurance under this
1951 section, except in a case in which professional services were provided after the date of the
1952 beginning of the period.

1953 (5) (a) Professional liability insurance coverage suspended in the case of any service
1954 member pursuant to Subsection (2) shall be reinstated by the insurance carrier on the date on
1955 which the service member transmits to the insurance carrier a written request for reinstatement.

1956 (b) The request of a service member for reinstatement shall be effective only if the
1957 service member transmits the request to the insurance carrier within 30 days after the date on
1958 which the service member's military service is terminated. The insurance carrier shall notify
1959 the person of the due date for payment of the insurance premium. The premium shall be paid
1960 by the person within 30 days after receipt of the notice.

1961 (6) The period for which professional liability insurance coverage shall be reinstated
1962 for a service member under this section may not be less than the balance of the period for
1963 which coverage would have continued under the policy if the coverage had not been suspended.

1964 (7) An insurance carrier may not increase the amount of the premium charged for
1965 professional liability insurance coverage of any service member for the minimum period of the
1966 reinstatement of coverage required under Subsection (5) to an amount greater than the amount
1967 chargeable for the coverage for the period before the suspension, except to the extent of any
1968 general increase in the premium amounts charged by that carrier for the same professional
1969 liability coverage for other persons similarly covered by the same insurance during the period
1970 of the suspension.

1971 (8) This section does not:

1972 (a) require a suspension of professional liability insurance coverage for any person who
1973 is not a person referred to in Subsection (1) and who is covered by the same professional
1974 liability insurance as a person referred to in Subsection (1); or

1975 (b) relieve any person of the obligation to pay premiums for the coverage not required
1976 to be suspended.

1977 (9) A civil or administrative action for damages on the basis of the alleged professional
1978 negligence or other professional liability of a person whose professional liability insurance

1979 coverage has been suspended under Subsection (2) shall be stayed until the end of the period of
1980 the suspension if:

1981 (a) the action was commenced during the period or suspension;

1982 (b) the action is based on an act or omission that occurred before the date on which the
1983 suspension became effective; and

1984 (c) the suspended professional liability insurance would, except for the suspension, on
1985 its face cover the alleged professional negligence or other professional liability negligence or
1986 other professional liability of the person.

1987 Section 52. Section **76-5-102.4** is amended to read:

1988 **76-5-102.4. Assault against peace officer or a military service member in uniform**
1989 **-- Penalties.**

1990 (1) (a) As used in this section:

1991 (i) "Assault" means an offense under Section [76-5-102](#).

1992 (ii) "Military [~~servicemember~~] service member in uniform" means:

1993 (A) a member of any branch of the United States military who is wearing a uniform as
1994 authorized by the member's branch of service; or

1995 (B) a member of the National Guard serving as provided in Section [39A-3-103](#).

1996 (iii) "Peace officer" means:

1997 (A) a law enforcement officer certified under Section [53-13-103](#);

1998 (B) a correctional officer under Section [53-13-104](#);

1999 (C) a special function officer under Section [53-13-105](#); or

2000 (D) a federal officer under Section [53-13-106](#).

2001 (iv) "Threat of violence" means an offense under Section [76-5-107](#).

2002 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

2003 (2) (a) An actor commits assault against a peace officer if:

2004 (i) the actor commits an assault or threat of violence against a peace officer, with
2005 knowledge that the peace officer is a peace officer; and

2006 (ii) at the time of the assault or threat of violence, the peace officer was acting within
2007 the scope of authority as a peace officer.

2008 (b) An actor commits an assault or threat of violence against a military

2009 [~~servicemember~~] service member in uniform if:

2010 (i) the actor commits an assault or threat of violence against a military
2011 [~~servicemember~~] service member in uniform; and

2012 (ii) at the time of the assault or threat of violence, the [~~servicemember~~] service member
2013 was on orders and acting within the scope of authority granted to the military [~~servicemember~~]
2014 service member in uniform.

2015 (3) (a) A violation of Subsection (2) is a class A misdemeanor.

2016 (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree
2017 felony if the actor:

2018 (i) has been previously convicted of a class A misdemeanor or a felony violation of this
2019 section; or

2020 (ii) causes substantial bodily injury.

2021 (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a second
2022 degree felony if the actor uses:

2023 (i) a dangerous weapon; or

2024 (ii) other means or force likely to produce death or serious bodily injury.

2025 (4) This section does not affect or limit any individual's constitutional right to the
2026 lawful expression of free speech, the right of assembly, or any other recognized rights secured
2027 by the [~~Constitution or laws of Utah or by the Constitution or laws of the United States~~] Utah
2028 Constitution or laws, or by the United States Constitution or federal law.

2029 (5) An actor who violates this section shall serve, in jail or another correctional facility,
2030 a minimum of:

2031 (a) 90 consecutive days for a second offense; and

2032 (b) 180 consecutive days for each subsequent offense.

2033 (6) The court may suspend the imposition or execution of the sentence required under
2034 Subsection (5) if the court finds that the interests of justice would be best served by the
2035 suspension and the court makes specific findings concerning the disposition on the record.

2036 Section 53. Section **78A-5-302** is amended to read:

2037 **78A-5-302. Definitions.**

2038 As used in this part:

2039 (1) "Defendant" means a veteran charged with a criminal offense.

2040 (2) "Domestic violence" means the same as that term is defined in Section [77-36-1](#).

- 2041 (3) (a) "Participant agreement" means the record, required by Subsection
2042 78A-5-304(1), of the policies and procedures of a veterans treatment court and any specific
2043 terms and conditions applicable to the defendant.
- 2044 (b) "Participant agreement" includes a modification under Section 78A-5-310.
- 2045 (4) "Record," except as otherwise provided in Subsection 78A-5-307(1)(c), means
2046 information that is inscribed on a tangible medium or that is stored in an electronic or other
2047 medium and is retrievable in perceivable form.
- 2048 (5) "[~~Servicemember~~] Service member" means:
- 2049 (a) a member of the active or reserve components of the armed forces as defined in
2050 Section 68-3-12.5; or
- 2051 (b) a member of the National Guard of the United States.
- 2052 (6) (a) "State" means a state of the United States, the District of Columbia, Puerto
2053 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
2054 jurisdiction of the United States.
- 2055 (b) "State" includes a federally recognized Indian tribe.
- 2056 (7) "Veteran" means a former [~~servicemember~~] service member who qualifies for
2057 health care benefits from the Veterans Administration.
- 2058 (8) "Veterans treatment court" means a veterans treatment court program administered
2059 under this part by a court of this state.
- 2060 Section 54. Section 78B-20-102 is amended to read:
- 2061 **78B-20-102. Definitions.**
- 2062 As used in this chapter:
- 2063 (1) "Adult" means an individual who has attained 18 years [~~of age~~] old or is an
2064 emancipated minor.
- 2065 (2) (a) "Caretaking authority" means the right to live with and care for a child on a
2066 day-to-day basis.
- 2067 (b) "Caretaking authority" includes physical custody, parent-time, right to access, and
2068 visitation.
- 2069 (3) "Child" means:
- 2070 (a) an unemancipated individual who has not attained 18 years [~~of age~~] old; or
- 2071 (b) an adult son or daughter by birth or adoption, or under law of this state other than

2072 this chapter, who is the subject of a court order concerning custodial responsibility.

2073 (4) "Court" means a tribunal, including an administrative agency, authorized under the
2074 law of this state other than this chapter to make, enforce, or modify a decision regarding
2075 custodial responsibility.

2076 (5) "Custodial responsibility" includes all powers and duties relating to caretaking
2077 authority and decision-making authority for a child. The term includes physical custody, legal
2078 custody, parent-time, right to access, visitation, and authority to grant limited contact with a
2079 child.

2080 (6) "Decision-making authority" means the power to make important decisions
2081 regarding a child, including decisions regarding the child's education, religious training, health
2082 care, extracurricular activities, and travel. The term does not include the power to make
2083 decisions that necessarily accompany a grant of caretaking authority.

2084 (7) "Deploying parent" means a [~~servicemember~~] service member who is deployed or
2085 has been notified of impending deployment and is:

2086 (a) a parent of a child under the law of this state other than this chapter; or

2087 (b) an individual who has custodial responsibility for a child under the law of this state
2088 other than this chapter.

2089 (8) "Deployment" means the movement or mobilization of a [~~servicemember~~] service
2090 member for more than 90 days but less than 18 months pursuant to uniformed service orders
2091 that:

2092 (a) are designated as unaccompanied;

2093 (b) do not authorize dependent travel; or

2094 (c) otherwise do not permit the movement of family members to the location to which
2095 the [~~servicemember~~] service member is deployed.

2096 (9) "Family care plan" means a formal written contingency plan mandated by
2097 regulation of the various departments and components of the uniformed service that requires
2098 certain [~~servicemember~~] service member parents of minor children to plan in advance for the
2099 smooth, rapid transfer of parental responsibilities to designees during the absence of the
2100 [~~servicemember~~] service member due to death, incapacity, short-term absences, long-term
2101 absences, including deployments, or noncombatant evacuation operations.

2102 (10) "Family member" means a sibling, aunt, uncle, cousin, stepparent, or grandparent

2103 of a child, or an individual recognized to be in a familial relationship with a child under the law
2104 of this state other than this chapter.

2105 (11) (a) "Limited contact" means the authority of a nonparent to visit a child for a
2106 limited time.

2107 (b) "Limited contact" includes authority to take the child to a place other than the
2108 residence of the child.

2109 (12) "Nonparent" means an individual other than a deploying parent or other parent.

2110 (13) "Other parent" means an individual who, in common with a deploying parent, is:

2111 (a) a parent of a child under the law of this state other than this chapter; or

2112 (b) an individual who has custodial responsibility for a child under the law of this state
2113 other than this chapter.

2114 (14) "Record" means information that is inscribed on a tangible medium or that is
2115 stored in an electronic or other medium and is retrievable in perceivable form.

2116 (15) "Return from deployment" means the conclusion of a [~~servicemember's~~] service
2117 member's deployment as specified in uniformed service orders.

2118 (16) "[~~Service member~~] Service member" means a member of a uniformed service.

2119 (17) "Sign" means, with present intent to authenticate or adopt a record:

2120 (a) to execute or adopt a tangible symbol; or

2121 (b) to attach to or logically associate with the record an electronic symbol, sound, or
2122 process.

2123 (18) "State" means a state of the United States, the District of Columbia, Puerto Rico,
2124 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
2125 of the United States.

2126 (19) "Uniformed service" means:

2127 (a) active and reserve components of the United States armed forces;

2128 (b) the United States Merchant Marine;

2129 (c) the commissioned corps of the United States Public Health Service;

2130 (d) the commissioned corps of the National Oceanic and Atmospheric Administration
2131 of the United States; or

2132 (e) the [~~national guard~~] National Guard of a state.

2133 Section 55. Section **78B-20-107** is amended to read:

2134 **78B-20-107. General consideration in custody proceeding of parent's military**
2135 **service.**

2136 In a proceeding for custodial responsibility of a child of a [~~servicemember~~] service
2137 member, a court may not consider a parent's past deployment or possible future deployment in
2138 itself in determining the best interest of the child but may consider any significant impact on
2139 the best interest of the child of the parent's past or possible future deployment.

2140 Section 56. **Repealer.**

2141 This bill repeals:

2142 Section **39-1-36, Reserve member of armed forces -- Leave of absence from**
2143 **employment -- Liability of employers.**

2144 Section **71-3-1, Use of armories by veterans organizations permitted.**

2145 Section **71-8-2, Department of Veterans and Military Affairs created --**
2146 **Appointment of executive director -- Department responsibilities.**

2147 Section **71-8-3, Duties of executive director -- Services to veterans.**

2148 Section **71-8-5, Veterans services coordinator qualifications -- Duties.**

2149 Section **71-8-6, Government entity participation.**

2150 Section **71-8-7, Government entity veterans affairs specialist -- Duties -- Training.**

2151 Section **71-8-8, Entity that provides no services -- Referral to department.**

2152 Section **71-11-1, Title.**

2153 Section **71-11-4, Administration by department.**

2154 Section **71-12-101, Title.**

2155 Section **71-13-101, Title.**