

## HB0057S01 compared with HB0057

~~{deleted text}~~ shows text that was in HB0057 but was deleted in HB0057S01.

inserted text shows text that was not in HB0057 but was inserted into HB0057S01.

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Representative Jefferson S. Burton proposes the following substitute bill:

### ARMED FORCES AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jefferson S. Burton**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### ~~{Committee Note:~~

~~\_\_\_\_\_ The Veterans and Military Affairs Commission recommended this bill.~~

~~\_\_\_\_\_ Membership: \_\_\_\_\_ 5 legislators \_\_\_\_\_ 16 non-legislators~~

~~\_\_\_\_\_ Total Vote: \_\_\_\_\_ 19 voting for \_\_\_\_\_ 0 voting against \_\_\_\_\_ 2 absent~~

~~\_\_\_\_\_ Legislative Vote: \_\_\_\_\_ 5 voting for \_\_\_\_\_ 0 voting against \_\_\_\_\_ 0 absent~~

##### ~~{General Description:~~

~~This bill adds Space Force to the definition of armed forces.~~

#### **Highlighted Provisions:**

This bill:

- ▶ adds Space Force to the definition of armed forces; and
- ▶ makes conforming and technical corrections.

#### **Money Appropriated in this Bill:**

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None

### Other Special Clauses:

~~{ None }~~ This bill provides a retrospective operation.

### Utah Code Sections Affected:

AMENDS:

**20A-1-513**, as last amended by Laws of Utah 2020, Chapter 140

**20A-16-102**, as enacted by Laws of Utah 2011, Chapter 327

**59-10-1027**, as enacted by Laws of Utah 2011, Chapter 254

**63G-1-401**, as last amended by Laws of Utah 2020, Chapter 354

**68-3-12.5**, as last amended by Laws of Utah 2019, Chapter 24

**78A-5-302**, as enacted by Laws of Utah 2020, Chapter 62

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

Section 1. Section **20A-1-513** is amended to read:

**20A-1-513. Temporary absence in elected office of a political subdivision for military service.**

(1) As used in this section:

(a) "Armed forces" means the same as that term is defined in Section 68-3-12.5, and includes:

~~[(i) the Army of the United States;]~~

~~[(ii) the United States Navy;]~~

~~[(iii) the United States Air Force;]~~

~~[(iv) the Marine Corps;]~~

~~[(v) the Coast Guard;]~~

~~[(vi) (i) the National Guard; [or] and~~

~~[(vii) a reserve or auxiliary of an entity listed in Subsections (1)(a)(i) through (vi).]~~

(ii) the national guard and armed forces reserves.

(b) (i) "Elected official" is a person who holds an office of a political subdivision that is required by law to be filled by an election.

(ii) "Elected official" includes a person who is appointed to fill a vacancy in an office described in Subsection (1)(b)(i).

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(c) (i) "Military leave" means the temporary absence from an office:

(A) by an elected official called to active, full-time duty in the armed forces; and

(B) for a period of time that exceeds 30 days and does not exceed 400 days.

(ii) "Military leave" includes the time a person on leave, as described in Subsection

(1)(c)(i), spends for:

(A) out processing;

(B) an administrative delay;

(C) accrued leave; and

(D) on rest and recuperation leave program of the armed forces.

(d) "Political subdivision's governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a local district, the board of trustees of the local district;

(iii) for a local school district, the local school board;

(iv) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(v) for a political subdivision not listed in Subsections (1)(d)(i) through (iv), the body that governs the affairs of the political subdivision.

(e) "Temporary replacement" means the person appointed by the political subdivision's governing body in accordance with this section to exercise the powers and duties of the office of the elected official who takes military leave.

(2) An elected official creates a vacancy in the elected official's office if the elected official is called to active, full-time duty in the armed forces in accordance with Title 10, U.S.C.A. unless the elected official takes military leave as provided by this section.

(3) (a) An elected official who is called to active, full-time duty in the armed forces in a status other than in accordance with Title 10, U.S.C.A. shall notify the political subdivision's governing body of the elected official's orders not later than five days after receipt of orders.

(b) The elected official described in Subsection (3)(a) may:

(i) continue to carry out the official's duties if possible while on active, full-time duty;

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or

(ii) take military leave if the elected official submits to the political subdivision's governing body written notice of the intent to take military leave and the expected duration of the military leave.

(4) (a) An elected official who chooses to continue to carry out the official's duties while on active, full-time duty shall, within 10 days after arrival at the official's place of deployment, confirm in writing to the political subdivision's governing body that the official has the ability to carry out the official's duties.

(b) If no confirmation is received by the political subdivision within the time period described in Subsection (4)(a), the elected official shall be placed in a military leave status and a temporary replacement appointed in accordance with Subsection (6).

(5) An elected official's military leave:

(a) begins the later of:

(i) the day after the day on which the elected official notifies the political subdivision's governing body of the intent to take military leave;

(ii) day 11 after the elected official's deployment if no confirmation is received in accordance with Subsection (4)(a); or

(iii) the day on which the elected official begins active, full-time duty in the armed forces; and

(b) ends the sooner of:

(i) the expiration of the elected official's term of office; or

(ii) the day on which the elected official ends active, full-time duty in the armed forces.

(6) A temporary replacement shall:

(a) meet the qualifications required to hold the office; and

(b) be appointed:

(i) in the same manner as provided by this part for a midterm vacancy if a registered political party nominated the elected official who takes military leave as a candidate for the office; or

(ii) by the political subdivision's governing body after submitting an application in accordance with Subsection (8)(b) if a registered political party did not nominate the elected official who takes military leave as a candidate for office.

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(7) (a) A temporary replacement shall exercise the powers and duties of the office for which the temporary replacement is appointed for the duration of the elected official's military leave.

(b) An elected official may not exercise the powers or duties of the office while on military leave.

(c) If a temporary replacement is not appointed as required by Subsection (6)(b), no person may exercise the powers and duties of the elected official's office during the elected official's military leave.

(8) The political subdivision's governing body shall establish:

(a) the distribution of the emoluments of the office between the elected official and the temporary replacement; and

(b) an application form and the date and time before which a person shall submit the application to be considered by the political subdivision's governing body for appointment as a temporary replacement.

Section 2. Section **20A-16-102** is amended to read:

### **20A-16-102. Definitions.**

As used in this chapter:

(1) "Covered voter" means:

(a) a uniformed-service voter or an overseas voter who is registered to vote in the state;

or

(b) a uniformed-service voter whose voting residence is in the state and who otherwise satisfies the state's voter eligibility requirements.

(2) "Dependent" means an individual recognized as a dependent by a uniformed service.

(3) "Federal postcard application" means the application prescribed under the Uniformed and Overseas Citizens Absentee Voting Act, Sec. 101(b)(2), 42 U.S.C. Sec. 1973ff(b)(2).

(4) "Federal write-in absentee ballot" means the ballot described in the Uniformed and Overseas Citizens Absentee Voting Act, Sec. 103, 42 U.S.C. Sec. 1973ff-2.

(5) "Military-overseas ballot" means:

(a) a federal write-in absentee ballot;

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(b) a ballot specifically prepared or distributed for use by a covered voter in accordance with this chapter; or

(c) a ballot cast by a covered voter in accordance with this chapter.

(6) "Overseas voter" means a United States citizen who is outside the United States.

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

(8) "Uniformed service" means:

(a) active and reserve components of the [~~Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States~~] armed forces as defined in Section 68-3-12.5;

(b) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(c) the National Guard.

(9) "Uniformed-service voter" means an individual who is qualified to vote and is:

(a) a member of the active or reserve components of the [~~Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States~~] armed forces who is on active duty;

(b) a member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;

(c) a member on activated status of the National Guard; or

(d) a spouse or dependent of a member referred to in Subsections (9)(a) through (c).

(10) "United States" means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

Section 3. Section **59-10-1027** is amended to read:

### **59-10-1027. Nonrefundable tax credit for combat related death.**

(1) As used in this section:

(a) "Active component of the United States Armed Forces" means active duty service in the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Space Force, or United States Coast Guard.

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(b) "Combat related death" means an individual who dies:

(i) on or after January 1, 2010; and

(ii) (A) while in military service in a combat zone; or

(B) as a result of a wound, disease, or injury the individual incurs while in military service in a combat zone.

(c) "Combat zone" means an area that the President of the United States designates by Executive Order as an area in which an active component of the United States Armed Forces or a reserve component of the United States Armed Forces are or have engaged in combat.

(d) "Military service in a combat zone" means service:

(i) in an active component of the United States Armed Forces or reserve component of the United States Armed Forces; and

(ii) performed:

(A) on or after the date the President of the United States designates by Executive Order as the date combatant activities begin in a combat zone; and

(B) on or before the date the President of the United States designates by Executive Order as the date combatant activities terminate in a combat zone.

(e) "Reserve component of the United States Armed Forces" means service in a reserve component of the armed forces listed in 10 U.S.C. Sec. 101(c) or 10 U.S.C. Sec. 10101.

(2) A claimant, estate, or trust that files a return on behalf of an individual who dies a combat related death may claim a nonrefundable tax credit against that individual's tax liability under this chapter as provided in this section.

(3) For purposes of Subsection (2), the tax credit is equal to the tax liability of the individual who dies a combat related death for the taxable year during which the individual dies.

Section 4. Section **63G-1-401** is amended to read:

### **63G-1-401. Commemorative periods.**

(1) The following days shall be commemorated annually:

(a) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history;

(b) Utah State Flag Day, on March 9;

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- (c) Vietnam Veterans Recognition Day, on March 29;
  - (d) Utah Railroad Workers Day, on May 10;
  - (e) Dandy-Walker Syndrome Awareness Day, on May 11;
  - (f) [~~Yellow Ribbon~~] Armed Forces Day, on the third [~~Monday~~] Saturday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;
  - (g) Juneteenth Freedom Day, on the third Saturday in June, in honor of Union General Gordon Granger proclaiming the freedom of all slaves on June 19, 1865, in Galveston, Texas;
  - (h) Arthrogryposis Multiplex Congenita Awareness Day, on June 30;
  - (i) Navajo Code Talker Day, on August 14;
  - (j) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in Sunset, Utah, to:
    - (i) encourage individuals to make child safety a priority;
    - (ii) remember the importance of continued efforts to reunite missing children with their families; and
    - (iii) honor Rachael Runyan and all Utah children who have been abducted or exploited;
  - (k) Constitution Day, on September 17;
  - (l) POW/MIA Recognition Day, on the third Friday in September;
  - (m) Victims of Communism Memorial Day, on November 7;
  - (n) Indigenous People Day, on the Monday immediately preceding Thanksgiving; and
  - (o) Bill of Rights Day, on December 15.
- (2) The Department of Veterans and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections (1)(f) and (l).
- (3) The month of April shall be commemorated annually as Clean Out the Medicine Cabinet Month to:
- (a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications; and
  - (b) educate citizens about the permanent medication disposal sites in Utah listed on



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useonlyasdirected.org that allow disposal throughout the year.

(4) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.

(5) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(6) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.

(7) The second Friday and Saturday in August shall be commemorated annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(8) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

(9) The third full week of September shall be commemorated annually as Gang Prevention Awareness Week.

(10) The month of October shall be commemorated annually as Italian-American Heritage Month.

(11) The month of November shall be commemorated annually as American Indian Heritage Month.

(12) The first full week of December shall be commemorated annually as Avalanche Awareness Week to:

(a) educate the public about avalanche awareness and safety;

(b) encourage collaborative efforts to decrease annual avalanche accidents and fatalities; and

(c) honor Utah residents who have lost their lives in avalanches, including those who

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lost their lives working to prevent avalanches.

Section 5. Section **68-3-12.5** is amended to read:

### **68-3-12.5. Definitions for Utah Code.**

(1) The definitions listed in this section apply to the Utah Code, unless:

(a) the definition is inconsistent with the manifest intent of the Legislature or repugnant to the context of the statute; or

(b) a different definition is expressly provided for the respective title, chapter, part, section, or subsection.

(2) "Adjudicative proceeding" means:

(a) an action by a board, commission, department, officer, or other administrative unit of the state that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including an action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of an action described in Subsection (2)(a).

(3) "Administrator" includes "executor" when the subject matter justifies the use.

(4) "Advisory board," "advisory commission," and "advisory council" mean a board, commission, committee, or council that:

(a) is created by, and whose duties are provided by, statute or executive order;

(b) performs its duties only under the supervision of another person as provided by statute; and

(c) provides advice and makes recommendations to another person that makes policy for the benefit of the general public.

(5) "Armed forces" means the United States Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.

(6) "City" includes, depending on population, a metro township as defined in Section 10-3c-102.

(7) "County executive" means:

(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52a, Changing Forms of County Government;

(b) the county executive, in the county executive-council optional form of government

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authorized by Section 17-52a-203; or

(c) the county manager, in the council-manager optional form of government authorized by Section 17-52a-204.

(8) "County legislative body" means:

(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52a, Changing Forms of County Government;

(b) the county council, in the county executive-council optional form of government authorized by Section 17-52a-203; and

(c) the county council, in the council-manager optional form of government authorized by Section 17-52a-204.

(9) "Depose" means to make a written statement made under oath or affirmation.

(10) "Executor" includes "administrator" when the subject matter justifies the use.

(11) "Guardian" includes a person who:

(a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment; or

(b) is appointed by a court to manage the estate of a minor or incapacitated person.

(12) "Highway" includes:

(a) a public bridge;

(b) a county way;

(c) a county road;

(d) a common road; and

(e) a state road.

(13) "Intellectual disability" means a significant, subaverage general intellectual functioning that:

(a) exists concurrently with deficits in adaptive behavior; and

(b) is manifested during the developmental period as defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

(14) "Intermediate care facility for people with an intellectual disability" means an intermediate care facility for the mentally retarded, as defined in Title XIX of the Social

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Security Act.

(15) "Land" includes:

- (a) land;
- (b) a tenement;
- (c) a hereditament;
- (d) a water right;
- (e) a possessory right; and
- (f) a claim.

(16) "Month" means a calendar month, unless otherwise expressed.

(17) "Oath" includes "affirmation."

(18) "Person" means:

- (a) an individual;
- (b) an association;
- (c) an institution;
- (d) a corporation;
- (e) a company;
- (f) a trust;
- (g) a limited liability company;
- (h) a partnership;
- (i) a political subdivision;
- (j) a government office, department, division, bureau, or other body of government;

and

(k) any other organization or entity.

(19) "Personal property" includes:

- (a) money;
- (b) goods;
- (c) chattels;
- (d) effects;
- (e) evidences of a right in action;
- (f) a written instrument by which a pecuniary obligation, right, or title to property is

created, acknowledged, transferred, increased, defeated, discharged, or diminished; and

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(g) a right or interest in an item described in Subsections (19)(a) through (f).

(20) "Personal representative," "executor," and "administrator" include:

(a) an executor;

(b) an administrator;

(c) a successor personal representative;

(d) a special administrator; and

(e) a person who performs substantially the same function as a person described in Subsections (20)(a) through (d) under the law governing the person's status.

(21) "Policy board," "policy commission," or "policy council" means a board, commission, or council that:

(a) is authorized to make policy for the benefit of the general public;

(b) is created by, and whose duties are provided by, the constitution or statute; and

(c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

(22) "Population" is shown by the most recent state or national census, unless expressly provided otherwise.

(23) "Process" means a writ or summons issued in the course of a judicial proceeding.

(24) "Property" includes both real and personal property.

(25) "Real estate" or "real property" includes:

(a) land;

(b) a tenement;

(c) a hereditament;

(d) a water right;

(e) a possessory right; and

(f) a claim.

(26) "Review board," "review commission," and "review council" mean a board, commission, committee, or council that:

(a) is authorized to approve policy made for the benefit of the general public by another body or person;

(b) is created by, and whose duties are provided by, statute; and

(c) performs its duties according to its own rules without supervision other than under

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the general control of another person as provided by statute.

(27) "Road" includes:

- (a) a public bridge;
- (b) a county way;
- (c) a county road;
- (d) a common road; and
- (e) a state road.

(28) "Signature" includes a name, mark, or sign written with the intent to authenticate an instrument or writing.

(29) "State," when applied to the different parts of the United States, includes a state, district, or territory of the United States.

(30) "Swear" includes "affirm."

(31) "Testify" means to make an oral statement under oath or affirmation.

(32) "Town" includes, depending on population, a metro township as defined in Section 10-3c-102.

(33) "Uniformed services" means:

- (a) the armed forces;
  - (b) the commissioned corps of the National Oceanic and Atmospheric Administration;
- and
- (c) the commissioned corps of the United States Public Health Service.

(34) "United States" includes each state, district, and territory of the United States of America.

(35) "Utah Code" means the 1953 recodification of the Utah Code, as amended, unless the text expressly references a portion of the 1953 recodification of the Utah Code as it existed:

- (a) on the day on which the 1953 recodification of the Utah Code was enacted; or
- (b) (i) after the day described in Subsection (35)(a); and
- (ii) before the most recent amendment to the referenced portion of the 1953 recodification of the Utah Code.

(36) "Vessel," when used with reference to shipping, includes a steamboat, canal boat, and every structure adapted to be navigated from place to place.

(37) (a) "Veteran" means an individual who:

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- (i) has served in the United States Armed Forces for at least 180 days:
  - (A) on active duty; or
  - (B) in a reserve component, to include the National Guard; or
- (ii) has incurred an actual service-related injury or disability while in the United States Armed Forces regardless of whether the individual completed 180 days; and
- (iii) was separated or retired under conditions characterized as honorable or general.
- (b) This definition is not intended to confer eligibility for benefits.
- (38) "Will" includes a codicil.
- (39) "Writ" means an order or precept in writing, issued in the name of:
  - (a) the state;
  - (b) a court; or
  - (c) a judicial officer.
- (40) "Writing" includes:
  - (a) printing;
  - (b) handwriting; and
  - (c) information stored in an electronic or other medium if the information is retrievable in a perceivable format.

Section 6. Section **78A-5-302** is amended to read:

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

As used in this part:

- (1) "Defendant" means a veteran charged with a criminal offense.
- (2) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- (3) (a) "Participant agreement" means the record, required by Subsection 78A-5-304(1), of the policies and procedures of a veterans treatment court and any specific terms and conditions applicable to the defendant.
  - (b) "Participant agreement" includes a modification under Section 78A-5-310.
- (4) "Record," except as otherwise provided in Subsection 78A-5-307(1)(c), means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (5) "Servicemember" means:
  - (a) a member of the active or reserve components of the [~~Army, Navy, Air Force,~~

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~~Marine Corps, or Coast Guard, of the United States]~~ armed forces as defined in Section 68-3-12.5; or

(b) a member of the National Guard of the United States.

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

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

(7) "Veteran" means a former servicemember who qualifies for health care benefits from the Veterans Administration.

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

Section 7. Retrospective operation.

Section 59-10-1027 has retrospective operation for a taxable year beginning on or after January 1, 2021.