

1 **ARMED FORCES AMENDMENTS**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Jefferson S. Burton**

5 Senate Sponsor: Kirk A. Cullimore

7 **LONG TITLE**

8 **General Description:**

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

10 **Highlighted Provisions:**

11 This bill:

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

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 This bill provides a retrospective operation.

18 **Utah Code Sections Affected:**

19 AMENDS:

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

21 **20A-16-102**, as enacted by Laws of Utah 2011, Chapter 327

22 **59-10-1027**, as enacted by Laws of Utah 2011, Chapter 254

23 **63G-1-401**, as last amended by Laws of Utah 2020, Chapter 354

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

25 **78A-5-302**, as enacted by Laws of Utah 2020, Chapter 62

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

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

29 **20A-1-513. Temporary absence in elected office of a political subdivision for**

30 **military service.**

31 (1) As used in this section:

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

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

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

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

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

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

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

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

41 (ii) the national guard and armed forces reserves.

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

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

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

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

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

49 (ii) "Military leave" includes the time a person on leave, as described in Subsection
50 (1)(c)(i)₂ spends for:

51 (A) out processing;

52 (B) an administrative delay;

53 (C) accrued leave; and

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

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

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

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

- 58 (iii) for a local school district, the local school board;
- 59 (iv) for a special service district:
- 60 (A) the legislative body of the county, city, or town that established the special service
61 district, if no administrative control board has been appointed under Section 17D-1-301; or
- 62 (B) the administrative control board of the special service district, if an administrative
63 control board has been appointed under Section 17D-1-301; and
- 64 (v) for a political subdivision not listed in Subsections (1)(d)(i) through (iv), the body
65 that governs the affairs of the political subdivision.
- 66 (e) "Temporary replacement" means the person appointed by the political subdivision's
67 governing body in accordance with this section to exercise the powers and duties of the office
68 of the elected official who takes military leave.
- 69 (2) An elected official creates a vacancy in the elected official's office if the elected
70 official is called to active, full-time duty in the armed forces in accordance with Title 10,
71 U.S.C.A. unless the elected official takes military leave as provided by this section.
- 72 (3) (a) An elected official who is called to active, full-time duty in the armed forces in
73 a status other than in accordance with Title 10, U.S.C.A. shall notify the political subdivision's
74 governing body of the elected official's orders not later than five days after receipt of orders.
- 75 (b) The elected official described in Subsection (3)(a) may:
- 76 (i) continue to carry out the official's duties if possible while on active, full-time duty;
- 77 or
- 78 (ii) take military leave if the elected official submits to the political subdivision's
79 governing body written notice of the intent to take military leave and the expected duration of
80 the military leave.
- 81 (4) (a) An elected official who chooses to continue to carry out the official's duties
82 while on active, full-time duty shall, within 10 days after arrival at the official's place of
83 deployment, confirm in writing to the political subdivision's governing body that the official
84 has the ability to carry out the official's duties.
- 85 (b) If no confirmation is received by the political subdivision within the time period

86 described in Subsection (4)(a), the elected official shall be placed in a military leave status and
87 a temporary replacement appointed in accordance with Subsection (6).

88 (5) An elected official's military leave:

89 (a) begins the later of:

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

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

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

96 (b) ends the sooner of:

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

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

99 (6) A temporary replacement shall:

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

101 (b) be appointed:

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

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

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

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

113 (c) If a temporary replacement is not appointed as required by Subsection (6)(b), no

114 person may exercise the powers and duties of the elected official's office during the elected
115 official's military leave.

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

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

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

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

123 **20A-16-102. Definitions.**

124 As used in this chapter:

125 (1) "Covered voter" means:

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

127 or

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

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

132 (3) "Federal postcard application" means the application prescribed under the
133 Uniformed and Overseas Citizens Absentee Voting Act, Sec. 101(b)(2), 42 U.S.C. Sec.
134 1973ff(b)(2).

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

137 (5) "Military-overseas ballot" means:

138 (a) a federal write-in absentee ballot;

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

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

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

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

146 (8) "Uniformed service" means:

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

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

152 (c) the National Guard.

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

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

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

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

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

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

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

165 **59-10-1027. Nonrefundable tax credit for combat related death.**

166 (1) As used in this section:

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

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

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

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

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

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

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

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

181 (ii) performed:

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

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

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

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

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

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

195 **63G-1-401. Commemorative periods.**

196 (1) The following days shall be commemorated annually:

197 (a) Utah History Day at the Capitol, on the Friday immediately following the fourth

198 Monday in January, to encourage citizens of the state, including students, to participate in
199 activities that recognize Utah's history;

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

201 (c) Vietnam Veterans Recognition Day, on March 29;

202 (d) Utah Railroad Workers Day, on May 10;

203 (e) Dandy-Walker Syndrome Awareness Day, on May 11;

204 (f) [~~Yellow Ribbon~~] Armed Forces Day, on the third [~~Monday~~] Saturday in May, in
205 honor of men and women who are serving or have served in the United States Armed Forces
206 around the world in defense of freedom;

207 (g) Juneteenth Freedom Day, on the third Saturday in June, in honor of Union General
208 Gordon Granger proclaiming the freedom of all slaves on June 19, 1865, in Galveston, Texas;

209 (h) Arthrogryposis Multiplex Congenita Awareness Day, on June 30;

210 (i) Navajo Code Talker Day, on August 14;

211 (j) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the
212 anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in
213 Sunset, Utah, to:

214 (i) encourage individuals to make child safety a priority;

215 (ii) remember the importance of continued efforts to reunite missing children with their
216 families; and

217 (iii) honor Rachael Runyan and all Utah children who have been abducted or exploited;

218 (k) Constitution Day, on September 17;

219 (l) POW/MIA Recognition Day, on the third Friday in September;

220 (m) Victims of Communism Memorial Day, on November 7;

221 (n) Indigenous People Day, on the Monday immediately preceding Thanksgiving; and

222 (o) Bill of Rights Day, on December 15.

223 (2) The Department of Veterans and Military Affairs shall coordinate activities, special
224 programs, and promotional information to heighten public awareness and involvement relating
225 to Subsections (1)(f) and (l).

226 (3) The month of April shall be commemorated annually as Clean Out the Medicine
227 Cabinet Month to:

228 (a) recognize the urgent need to make Utah homes and neighborhoods safe from
229 prescription medication abuse and poisonings by the proper home storage and disposal of
230 prescription and over-the-counter medications; and

231 (b) educate citizens about the permanent medication disposal sites in Utah listed on
232 useonlyasdirected.org that allow disposal throughout the year.

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

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

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

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

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

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

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

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

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

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

253 (10) The month of October shall be commemorated annually as Italian-American

254 Heritage Month.

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

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

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

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

262 (c) honor Utah residents who have lost their lives in avalanches, including those who
263 lost their lives working to prevent avalanches.

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

265 **68-3-12.5. Definitions for Utah Code.**

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

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

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

271 (2) "Adjudicative proceeding" means:

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

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

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

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

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

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

282 statute; and

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

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

287 (6) "City" includes, depending on population, a metro township as defined in Section
288 [10-3c-102](#).

289 (7) "County executive" means:

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

293 (b) the county executive, in the county executive-council optional form of government
294 authorized by Section [17-52a-203](#); or

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

297 (8) "County legislative body" means:

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

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

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

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

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

307 (11) "Guardian" includes a person who:

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

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

311 (12) "Highway" includes:

312 (a) a public bridge;

313 (b) a county way;

314 (c) a county road;

315 (d) a common road; and

316 (e) a state road.

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

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

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

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

326 (15) "Land" includes:

327 (a) land;

328 (b) a tenement;

329 (c) a hereditament;

330 (d) a water right;

331 (e) a possessory right; and

332 (f) a claim.

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

334 (17) "Oath" includes "affirmation."

335 (18) "Person" means:

336 (a) an individual;

337 (b) an association;

- 338 (c) an institution;
- 339 (d) a corporation;
- 340 (e) a company;
- 341 (f) a trust;
- 342 (g) a limited liability company;
- 343 (h) a partnership;
- 344 (i) a political subdivision;
- 345 (j) a government office, department, division, bureau, or other body of government;
- 346 and
- 347 (k) any other organization or entity.
- 348 (19) "Personal property" includes:
- 349 (a) money;
- 350 (b) goods;
- 351 (c) chattels;
- 352 (d) effects;
- 353 (e) evidences of a right in action;
- 354 (f) a written instrument by which a pecuniary obligation, right, or title to property is
- 355 created, acknowledged, transferred, increased, defeated, discharged, or diminished; and
- 356 (g) a right or interest in an item described in Subsections (19)(a) through (f).
- 357 (20) "Personal representative," "executor," and "administrator" include:
- 358 (a) an executor;
- 359 (b) an administrator;
- 360 (c) a successor personal representative;
- 361 (d) a special administrator; and
- 362 (e) a person who performs substantially the same function as a person described in
- 363 Subsections (20)(a) through (d) under the law governing the person's status.
- 364 (21) "Policy board," "policy commission," or "policy council" means a board,
- 365 commission, or council that:

366 (a) is authorized to make policy for the benefit of the general public;
367 (b) is created by, and whose duties are provided by, the constitution or statute; and
368 (c) performs its duties according to its own rules without supervision other than under
369 the general control of another person as provided by statute.

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

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

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

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

375 (a) land;

376 (b) a tenement;

377 (c) a hereditament;

378 (d) a water right;

379 (e) a possessory right; and

380 (f) a claim.

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

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

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

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

388 (27) "Road" includes:

389 (a) a public bridge;

390 (b) a county way;

391 (c) a county road;

392 (d) a common road; and

393 (e) a state road.

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

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

398 (30) "Swear" includes "affirm."

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

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

402 (33) "Uniformed services" means:

403 (a) the armed forces;

404 (b) the commissioned corps of the National Oceanic and Atmospheric Administration;
405 and

406 (c) the commissioned corps of the United States Public Health Service.

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

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

411 (a) on the day on which the 1953 recodification of the Utah Code was enacted; or

412 (b) (i) after the day described in Subsection (35)(a); and

413 (ii) before the most recent amendment to the referenced portion of the 1953
414 recodification of the Utah Code.

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

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

418 (i) has served in the United States Armed Forces for at least 180 days:

419 (A) on active duty; or

420 (B) in a reserve component, to include the National Guard; or

421 (ii) has incurred an actual service-related injury or disability while in the United States

- 422 Armed Forces regardless of whether the individual completed 180 days; and
- 423 (iii) was separated or retired under conditions characterized as honorable or general.
- 424 (b) This definition is not intended to confer eligibility for benefits.
- 425 (38) "Will" includes a codicil.
- 426 (39) "Writ" means an order or precept in writing, issued in the name of:
- 427 (a) the state;
- 428 (b) a court; or
- 429 (c) a judicial officer.
- 430 (40) "Writing" includes:
- 431 (a) printing;
- 432 (b) handwriting; and
- 433 (c) information stored in an electronic or other medium if the information is retrievable
- 434 in a perceivable format.

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

436 **78A-5-302. Definitions.**

437 As used in this part:

- 438 (1) "Defendant" means a veteran charged with a criminal offense.
- 439 (2) "Domestic violence" means the same as that term is defined in Section [77-36-1](#).
- 440 (3) (a) "Participant agreement" means the record, required by Subsection
- 441 [78A-5-304](#)(1), of the policies and procedures of a veterans treatment court and any specific
- 442 terms and conditions applicable to the defendant.
- 443 (b) "Participant agreement" includes a modification under Section [78A-5-310](#).
- 444 (4) "Record," except as otherwise provided in Subsection [78A-5-307](#)(1)(c), means
- 445 information that is inscribed on a tangible medium or that is stored in an electronic or other
- 446 medium and is retrievable in perceivable form.
- 447 (5) "Servicemember" means:
- 448 (a) a member of the active or reserve components of the [~~Army, Navy, Air Force,~~
- 449 ~~Marine Corps, or Coast Guard, of the United States~~] armed forces as defined in Section

450 [68-3-12.5](#); or

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

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

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

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

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

460 Section 7. **Retrospective operation.**

461 Section [59-10-1027](#) has retrospective operation for a taxable year beginning on or after
462 January 1, 2021.