

## **WHY SB 277 IS GOOD POLICY**

### **1. The proposed amendments to GRAMA do not decrease transparency nor hinders ease of access to the appeals process.**

The proposed amendments do not change the private, protected, or controlled classification of any records. Moreover, the simple process, timelines, and content of an appeal are not being changed at all (see the table on the back of this sheet for details). The only thing changing is who is applying the law to the facts. That is changing from a body of seven to a single law trained hearing officer.

### **2. The proposed use of an administrative law judge will greatly increase the efficiency of the GRAMA appeals process.**

Efficient and expeditious resolution of records appeals is in the interest of the general public, government entities, and media who will have more ready access to records (or not) in the instance an appeal is necessary.

- a. The State Records Committee meets once per month to hear 10 appeals. The Director of the Government Records Office, as an employee, could easily hold hearings at least once per/week. A change from 10 hearings a month to 40 hearings a month is a 300% increase in cases heard and resolved. The increase could be more if more than 10 cases per/day are heard or there is more than one hearing per/week.
- b. Utilizing an administrative law judge will allow hearings to be scheduled for a time certain rather than a "cattle call" where everyone shows up at once and just waits for their case to be called (the current practice). That will avoid public officials, requestors, and attorneys (public and private) from having to sit in the hearing room for multiple hours waiting for their case to be heard.

### **3. The use of an administrative law judge will not result in biased decisions.**

- a. Under existing law, the Governor appoints members of the State Records Committee with the advice and consent of the Senate. Under SB 277, the administrative law judge will likewise be appointed by the Governor and confirmed by advice and consent of the Senate. SB 277 does not change the process.
- b. The administrative law judge will be a member of the Utah State Bar and is therefore required to comply with Utah Supreme Court's Rules of Professional Practice. Those rules would prevent an administrative law judge from acting in a biased or self-interested way. If the administrative law judge violated the rules of professional practice, they could have disciplinary action taken against their law license. Any individual can report lawyer misconduct to the Utah State Bar for investigation.

**S.B. 277 does not change the GRAMA appeals process or make appeals more inaccessible. It simply changes who makes the decision on appeal.**

Code Provision	Current Process	SB277 Process
63G-2-403(1)(a)	Appeal by filing a notice of appeal with the <u>State Records Committee</u> within 30 days of prior decision.	Changes "state records committee" to "director." No other relevant changes.
63G-2-403(2)	Notice of appeal only needs to contain a name, mailing address, daytime phone number, copy of decision being appealed, and the requested relief.	No change in required appeal material.
63G-2-403(3)	Notice of appeal may include a "short statement of facts, reasons, and legal authorities" in support of the appeal.	No change in optional appeal material.
63G-2-403(4)(a)	<u>The State Records Committee</u> shall schedule a hearing at least 16 days after notice of appeal is filed, but no more than 64 days after.	Changes "state records committee" to "director." No other changes.
63G-2-403(5)(a)	Requires government entity to file a response with <u>the state records committee</u> five days before hearing.	Changes "state records committee" to "director." No other changes.
63G-2-403(7)	The <u>State Records Committee</u> shall hold a hearing to decide dispute.	Changes "state records committee" to "director." No other changes.
63G-2-403(8)	The <u>State Records Committee</u> shall allow parties to testify, present evidence, and comment on issues.	Changes "state records committee" to "director." No other changes.
63G-2-403(9)	The <u>State Records Committee</u> may review the disputed records.	Changes "state records committee" to "director." No other changes.
63G-2-403(10)	The <u>State Records Committee</u> review of government's decision is de novo.	Changes "state records committee" to "director." No other changes.
63G-2-403(11)	The <u>State Records Committee</u> shall issue a written decision no later than 7 days after the hearing.	Changes "state records committee" to "director." No other changes.
63G-2-403(14)	A party to a proceeding before the <u>State Records Committee</u> may seek judicial review.	Changes "state records committee" to "director." No other changes.
	No fee to appeal	No fee to appeal