

Bill: 1st Substitute SB 277 – Government Records Management Amendments

Sponsor: Senator Michael K. McKell

Floor Sponsor: Undeclared

UASD Position: Tracking

This Bill creates the Government Records Office (“Office”) within the Division of Archives and Records Service (“Division”), and replaces the State Records Committee (“Committee”) with the director of the office, who is an attorney with knowledge and experience relating to government records law and makes other changes relating to government records.

Discussion: Senator McKell included Rachael Terry, with the Division of Risk Management of Utah, and Geoffrey Landward, the Commissioner of Higher Education, in his presentation of SB 277. The 1st Substitute was adopted. The sponsor explained that current statute offers two pathways for repealing records decisions: through the State Records Committee and the courts. However, there have been inconsistencies within the Committee, and a recent audit revealed that the processes have been moving too slowly. The Bill does not remove the balancing test but requires that Committee members have a legal background with records experience, along with significant training. The Bill is designed to improve the efficiency of records requests. It creates the Government Records Office within the Division of Archives and Records and outlines the functions of the Office. It requires the Governor to appoint the Director of the Office in consultation with the Executive Director of the Department, with the advice and consent of the Senate. The Bill details the term of office, qualifications, and duties of the Director. Additionally, it repeals the existing committee and provides that the Director will assume the responsibilities previously assigned to the committee, including making decisions on appeals under the Government Records Access and Management Act (“GRAMA”). The Government Records Ombudsman will become an employee of the Office. The Bill also grants rulemaking authority to the Director of the Office and establishes the process for transitioning from the committee to the Director's Office.

Rachael Terry did not take a position on the Bill but provided technical information on GRAMA appeals. She explained that Risk Management covers costs associated with GRAMA requests, which has become a significant financial burden for the state. She also referenced similar programs used successfully in other states, which are akin to the one proposed by SB 277. Geoffrey Landward discussed the impact of the current process on higher education institutions. He emphasized that whether a record is correctly classified is a legal question that should be determined by legal professionals to ensure consistency and regulatory compliance for institutions.

Senator Vickers inquired if the administrative law judge would become a state employee or remain a volunteer. The sponsor referred to lines 208 and 209, which outline that the Director will be a state employee. Senator Blouin asked how the balancing test would be applied. The sponsor explained that it would be administered by someone with legal experience. Senator Blouin expressed concern about this decision being made by a single individual. Senator

Winterton questioned the fiscal note of the substitute, as it transitions from seven part-time employees to two full-time employees. The sponsor confirmed that the fiscal note exceeds \$400,000. Senator Winterton asked about transparency in the process. The sponsor emphasized that the 1st Substitute SB 277 makes the process more transparent than the current system, particularly through the streamlining of procedures. Senator Sandall inquired about the ethical criteria for the attorney involved. The sponsor confirmed that the attorney will be required to take an oath to fulfill their role.

The Utah League of Cities and Towns expressed support for the Bill, while many members of the public voiced opposition. Senator Thatcher acknowledged that the substitute represents a significant improvement but noted concerns that the public feels unheard. The sponsor shared audit findings showing that a statutory 73-day timeline exists for cases to be heard, but many cases were not addressed within that timeframe. In 2023, only three cases were heard within the statutory window, while 48 were delayed. The average time for a case to be heard was about 156 days from notice of appeal to court action. Senator Vickers echoed Senator Thatcher's concerns but stated that he would support the Bill, trusting the sponsor to continue refining it throughout the legislative process. Senator Blouin expressed concerns about transparency but also indicated his support for the Bill.

Yeas: 4
Nays: 2
N/V: 1

Outcome: 1st Substitute SB 277 passed out of the Committee with a favorable recommendation.

Bill: HB 239 – Disaster Funds Revisions

Sponsor: Representative Carl R. Albrecht
Floor Sponsor: Senator Michael K. McKell
UASD Position: Support

This Bill concerns disaster funds.

Discussion: The Bill modifies provisions related to the State Disaster Recovery Restricted Account, adjusting the amounts that may be expended by the Division of Emergency Management under specific conditions. It also renames the Response, Recovery, and Post-disaster Mitigation Restricted Account to the Disaster Response, Recovery, and Mitigation Restricted Account. The Bill increases the funds available from the account for disaster response and recovery under certain circumstances and expands the allowable uses of these funds to include pre-disaster mitigation in specific cases. Additionally, it updates standards for disaster response and recovery grants, and grants rulemaking authority to the Division of Emergency Management regarding the use of funds for pre-disaster mitigation. Lastly, the Bill requires the Division of Finance to transfer certain funds from the State Disaster Recovery Restricted Account to the newly renamed account under specified conditions.

The sponsor's goal is to protect communities and mitigate future damage caused by natural disasters. To achieve this, he consulted with the Director of Emergency Management, Chris Hamlett, to restructure restricted emergency funding accounts. This change would allow communities to apply for pre-disaster mitigation funding. When the Disaster Recovery Restricted Account (DRRA) exceeds \$50 million, HB 239 allows the transfer of up to \$10 million to local emergency accounts, and at that point, the match requirement to access these funds would be removed. This would provide funds to prepare for disasters and project funding when excess funds are available and approved by the Governor. Chris Hamlett added that the Bill helps provide support to smaller communities that may not receive the assistance they need. No public comments were made.

Yeas: 3
Nays: 0
N/V: 4

Outcome: HB 239 passed out of the Committee with a favorable recommendation.