1   # GRAMA REVISIONS RELATED TO REVIEW

2   # OF ETHICS COMPLAINTS

3   2010 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: John L. Valentine**

6   House Sponsor: David Litvack

7

8   **LONG TITLE**

9   **General Description:**

10   This bill modifies provisions of the Government Records Access and Management Act

11   that relate to classification of records associated with the review of legislative ethics

12   complaints.

13   **Highlighted Provisions:**

14   This bill:

15   ▸ provides private status to certain records of the Independent Legislative Ethics

16   Commission;

17   ▸ requires the commission's summary data report to be public;

18   ▸ provides that only records related to review of ethics complaints may be classified

19   as private by a legislative ethics committee, unless those documents are classified

20   as public under legislative rule; and

21   ▸ makes technical changes.

22   **Monies Appropriated in this Bill:**

23   None

24   **Other Special Clauses:**

25   This bill provides an immediate effective date.

26   **Utah Code Sections Affected:**

27   AMENDS:

28   **63G-2-302**, as last amended by Laws of Utah 2009, Chapters 126, 349, and 379

29

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

31   Section 1. Section **63G-2-302** is amended to read:

32   **63G-2-302.   Private records.**

33   (1) The following records are private:

34   (a) records concerning an individual's eligibility for unemployment insurance benefits,

35   social services, welfare benefits, or the determination of benefit levels;

36   (b) records containing data on individuals describing medical history, diagnosis,

37   condition, treatment, evaluation, or similar medical data;

38   (c) records of publicly funded libraries that when examined alone or with other records

39   identify a patron;

40   (d) records received <u>by</u> or generated <u>by or</u> for<u>:</u>

41   <u>(i) the Independent Legislative Ethics Commission, except for:</u>

42   <u>(A) the commission's summary data report that is required under legislative rule; and</u>

43   <u>(B) any other document that is classified as public under legislative rule; or</u>

44   <u>(ii)</u> a Senate or House Ethics Committee [concerning any alleged violation of the rules

45   on legislative ethics, prior to the meeting, and after the meeting, if the ethics committee

46   meeting was closed to the public;] <u>in relation to the review of ethics complaints, unless the</u>

47   <u>record is classified as public under legislative rule;</u>

48   (e) records received or generated for a Senate confirmation committee concerning

49   character, professional competence, or physical or mental health of an individual:

50   (i) if prior to the meeting, the chair of the committee determines release of the records:

51   (A) reasonably could be expected to interfere with the investigation undertaken by the

52   committee; or

53   (B) would create a danger of depriving a person of a right to a fair proceeding or

54   impartial hearing; and

55   (ii) after the meeting, if the meeting was closed to the public;

56   (f) employment records concerning a current or former employee of, or applicant for

57   employment with, a governmental entity that would disclose that individual's home address,

58   home telephone number, Social Security number, insurance coverage, marital status, or payroll

59   deductions;

60   (g) records or parts of records under Section 63G-2-303 that a current or former

61   employee identifies as private according to the requirements of that section;

62   (h) that part of a record indicating a person's Social Security number or federal

63   employer identification number if provided under Section 31A-23a-104, 31A-25-202,

64   31A-26-202, 58-1-301, 61-1-4, or 61-2-6;

65   (i) that part of a voter registration record identifying a voter's driver license or

66   identification card number, Social Security number, or last four digits of the Social Security

67   number;

68   (j) a record that:

69   (i) contains information about an individual;

70   (ii) is voluntarily provided by the individual; and

71   (iii) goes into an electronic database that:

72   (A) is designated by and administered under the authority of the Chief Information

73   Officer; and

74   (B) acts as a repository of information about the individual that can be electronically

75   retrieved and used to facilitate the individual's online interaction with a state agency;

76   (k) information provided to the Commissioner of Insurance under:

77   (i) Subsection 31A-23a-115(2)(a);

78   (ii) Subsection 31A-23a-302(3); or

79   (iii) Subsection 31A-26-210(3);

80   (l) information obtained through a criminal background check under Title 11, Chapter

81   40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

82   (m) information provided by an offender that is:

83   (i) required by the registration requirements of Section 77-27-21.5; and

84   (ii) not required to be made available to the public under Subsection 77-27-21.5(27);

85   and

86   (n) a statement and any supporting documentation filed with the attorney general in

87   accordance with Section 34-45-107, if the federal law or action supporting the filing involves

88   homeland security.

89   (2) The following records are private if properly classified by a governmental entity:

90   (a) records concerning a current or former employee of, or applicant for employment

91   with a governmental entity, including performance evaluations and personal status information

92   such as race, religion, or disabilities, but not including records that are public under

93   Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);

94   (b) records describing an individual's finances, except that the following are public:

95   (i) records described in Subsection 63G-2-301(2);

96   (ii) information provided to the governmental entity for the purpose of complying with

97   a financial assurance requirement; or

98   (iii) records that must be disclosed in accordance with another statute;

99   (c) records of independent state agencies if the disclosure of those records would

100 conflict with the fiduciary obligations of the agency;

101   (d) other records containing data on individuals the disclosure of which constitutes a

102 clearly unwarranted invasion of personal privacy;

103   (e) records provided by the United States or by a government entity outside the state

104 that are given with the requirement that the records be managed as private records, if the

105 providing entity states in writing that the record would not be subject to public disclosure if

106 retained by it; and

107   (f) any portion of a record in the custody of the Division of Aging and Adult Services,

108 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a

109 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

110   (3) (a) As used in this Subsection (3), "medical records" means medical reports,

111 records, statements, history, diagnosis, condition, treatment, and evaluation.

112   (b) Medical records in the possession of the University of Utah Hospital, its clinics,

113 doctors, or affiliated entities are not private records or controlled records under Section

114   63G-2-304 when the records are sought:

115   (i) in connection with any legal or administrative proceeding in which the patient's

116   physical, mental, or emotional condition is an element of any claim or defense; or

117   (ii) after a patient's death, in any legal or administrative proceeding in which any party

118   relies upon the condition as an element of the claim or defense.

119   (c) Medical records are subject to production in a legal or administrative proceeding

120   according to state or federal statutes or rules of procedure and evidence as if the medical

121   records were in the possession of a nongovernmental medical care provider.

122   Section 2. **Effective date.**

123   If approved by two-thirds of all the members elected to each house, this bill takes effect

124   upon approval by the governor, or the day following the constitutional time limit of Utah

125   Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,

126   the date of veto override.