

**Senator Carlene M. Walker** proposes the following substitute bill:

**LOCAL GOVERNMENT AMENDMENTS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Wayne A. Harper**

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to municipal and county government.

**Highlighted Provisions:**

This bill:

- ▶ reduces the number of copies of an ordinance, code, or book relating to building or safety standards, municipal functions, administration, control, or regulations that a city clerk is required to maintain from three to one;
- ▶ eliminates provisions that specify the type of governing body that a city or town must have;
- ▶ eliminates some optional forms of municipal government and related provisions and makes conforming changes;
- ▶ modifies optional forms of municipal government and makes conforming changes;
- ▶ narrows the application of municipal moderate income housing plan requirements to cities;
- ▶ modifies the definition of moderate income housing for purposes of moderate income housing plan provisions;
- ▶ changes a requirement to update a moderate income housing plan from annual to biennial;
- ▶ prohibits the awarding of damages in an action seeking enforcement or claiming a



26 violation of moderate income housing provisions and limits the type of relief that  
27 may be granted; and

28       ▶ makes technical changes.

29 **Monies Appropriated in this Bill:**

30       None

31 **Other Special Clauses:**

32       None

33 **Utah Code Sections Affected:**

34 **AMENDS:**

- 35       **10-2-112**, as last amended by Chapter 292, Laws of Utah 2003
- 36       **10-2-114**, as last amended by Chapter 292, Laws of Utah 2003
- 37       **10-2-303**, as last amended by Chapter 17, Laws of Utah 1999
- 38       **10-2-411**, as last amended by Chapter 206, Laws of Utah 2001
- 39       **10-3-101**, as enacted by Chapter 48, Laws of Utah 1977
- 40       **10-3-106**, as last amended by Chapter 1, Laws of Utah 2000
- 41       **10-3-205**, as last amended by Chapter 292, Laws of Utah 2003
- 42       **10-3-206**, as enacted by Chapter 48, Laws of Utah 1977
- 43       **10-3-504**, as last amended by Chapter 292, Laws of Utah 2003
- 44       **10-3-507**, as last amended by Chapter 292, Laws of Utah 2003
- 45       **10-3-711**, as last amended by Chapter 84, Laws of Utah 1997
- 46       **10-3-1203**, as last amended by Chapter 178, Laws of Utah 2001
- 47       **10-3-1208**, as last amended by Chapter 292, Laws of Utah 2003
- 48       **10-9-307**, as last amended by Chapter 292, Laws of Utah 2003
- 49       **17-27-307**, as last amended by Chapter 159, Laws of Utah 2002

50 **REPEALS:**

- 51       **10-3-103**, as last amended by Chapter 17, Laws of Utah 1999
- 52       **10-3-104**, as last amended by Chapter 17, Laws of Utah 1999
- 53       **10-3-105**, as last amended by Chapter 292, Laws of Utah 2003
- 54       **10-3-203**, as last amended by Chapter 278, Laws of Utah 1997
- 55       **10-3-204**, as last amended by Chapter 278, Laws of Utah 1997
- 56       **10-3-401**, as enacted by Chapter 48, Laws of Utah 1977

57 **10-3-402**, as last amended by Chapter 292, Laws of Utah 2003  
58 **10-3-1209**, as last amended by Chapter 178, Laws of Utah 2001



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

60 Section 1. Section **10-2-112** is amended to read:

61 **10-2-112. Ballot used at the incorporation election.**

62 (1) The ballot at the incorporation election under Subsection 10-2-111(1) shall pose the  
63 incorporation question substantially as follows:

64 Shall the area described as (insert a description of the proposed city) be incorporated as  
65 the city of (insert the proposed name of the proposed city)?

66 (2) The ballot shall provide a space for the voter to answer yes or no to the question in  
67 Subsection (1).

68 (3) (a) The ballot at the incorporation election shall also pose the question relating to  
69 the form of government substantially as follows:

70 If the above incorporation proposal passes, under what form of municipal government  
71 shall (insert the name of the proposed city) operate? Vote for one:

72 Five-member City [~~(insert "Commission" for a city of the first or second class or~~  
73 ~~)]Council[" for a city of the third, fourth, or fifth class)] form~~

74 Six-member City Council form

75 Council-Mayor form

76 Council-Manager form.

77 (b) The ballot shall provide a space for the voter to vote for one form of government.

78 (4) (a) The ballot at the incorporation election shall also pose the question of whether  
79 to elect city [~~commission or~~] council members by district substantially as follows:

80 If the above incorporation proposal passes, shall members of the city [~~(insert~~  
81 ~~"commission" or "council[" as the case may be)~~] of (insert the name of the proposed city) be  
82 elected by district?

83 (b) The ballot shall provide a space for the voter to answer yes or no to the question in  
84 Subsection (4)(a).

85 Section 2. Section **10-2-114** is amended to read:

86 **10-2-114. Determination of number of commission or council members --**

88 **Determination of election districts -- Hearings and notice.**

89 (1) If the incorporation proposal passes, the petition sponsors shall, within 25 days of  
90 the canvass of the election under Section 10-2-111:

91 (a) if the voters at the incorporation election choose either the council-mayor or the  
92 council-manager form of government, determine the number of [~~commission or~~] council  
93 members that will constitute the [~~commission or~~] council of the future city;

94 (b) if the voters at the incorporation election vote to elect [~~commission or~~] council  
95 members by district, determine the number of [~~commission or~~] council members to be elected  
96 by district and draw the boundaries of those districts, which shall be substantially equal in  
97 population;

98 (c) determine the initial terms of the mayor and members of the city [~~commission or~~]  
99 council so that:

100 (i) the mayor and approximately half the members of the city [~~commission or~~] council  
101 are elected to serve an initial term, of no less than one year, that allows their successors to serve  
102 a full four-year term that coincides with the schedule established in [~~Subsection 10-3-203(1)~~  
103 ~~for a first class city, Subsection 10-3-204(1) for a second class city, and] Subsection~~  
104 10-3-205(1) [~~for a third, fourth, or fifth class city]; and~~

105 (ii) the remaining members of the city [~~commission or~~] council are elected to serve an  
106 initial term, of no less than one year, that allows their successors to serve a full four-year term  
107 that coincides with the schedule established in [~~Subsection 10-3-203(2) for a first class city,~~  
108 ~~Subsection 10-3-204(2) for a second class city, and] Subsection 10-3-205(2) [~~for a third,~~  
109 ~~fourth, or fifth class city]; and~~~~

110 (d) submit in writing to the county legislative body the results of the sponsors'  
111 determinations under Subsections (1)(a), (b), and (c).

112 (2) (a) Before making a determination under Subsection (1)(a), (b), or (c), the petition  
113 sponsors shall hold a public hearing within the future city on the applicable issues under  
114 Subsections (1)(a), (b), and (c).

115 (b) (i) The petition sponsors shall publish notice of the public hearing under Subsection  
116 (2)(a) in a newspaper of general circulation within the future city at least once a week for two  
117 successive weeks before the hearing.

118 (ii) The last publication of notice under Subsection (2)(b)(i) shall be at least three days

119 before the public hearing under Subsection (2)(a).

120 (c) (i) If there is no newspaper of general circulation within the future city, the petition  
121 sponsors shall post at least one notice of the hearing per 1,000 population in conspicuous  
122 places within the future city that are most likely to give notice of the hearing to the residents of  
123 the future city.

124 (ii) The petition sponsors shall post the notices under Subsection (2)(c)(i) at least seven  
125 days before the hearing under Subsection (2)(a).

126 Section 3. Section **10-2-303** is amended to read:

127 **10-2-303. Effect of change in class.**

128 (1) (a) If a municipality changes from one class to another:

129 ~~[(a)]~~ (i) all property, property rights, and other rights that belonged to or were vested in  
130 the municipality at the time of the change shall belong to and be vested in it after the change;

131 ~~[(b)]~~ (ii) no contract, claim, or right of the municipality or demand or liability against it  
132 shall be altered or affected in any way by the change;

133 ~~[(c)]~~ (iii) each ordinance, order, and resolution in force in the municipality when it  
134 changes classes shall, to the extent that it is not inconsistent with law, not be affected by the  
135 change and shall remain in effect until repealed or amended;

136 ~~[(d)]~~ (iv) the change shall not affect the identity of the municipality;

137 ~~[(e)]~~ (v) each municipal officer in office at the time of the change shall continue as an  
138 officer until that officer's term expires and a successor is duly elected and qualified; and

139 ~~[(f)]~~ (vi) ~~[notwithstanding Sections 10-3-103, 10-3-104, and 10-3-105,]~~ except as  
140 provided in Subsection (1)(b), the municipality maintains after the change in class the same  
141 form of government that it had immediately before the change.

142 (b) (i) If a town operating under a five-member council form of government changes  
143 classes to a fifth class city, its form of government shall, upon issuance of the lieutenant  
144 governor's certificate under Section 10-2-302, change to a six-member council form.

145 (ii) As soon as practicable after the change in form of government under Subsection  
146 (1)(b)(i), the governing body shall appoint a sixth council member to serve until a successor is  
147 elected at the next municipal general election at which the mayor is not subject to election.

148 (2) (a) A change in class does not affect an action at law, prosecution, business, or  
149 work of the municipality changing classes, and proceedings shall continue and may be

150 conducted and proceed as if no change in class had occurred.

151 (b) Notwithstanding Subsection (2)(a), if the law applicable to a municipality under the  
152 new class provides the municipality a different remedy with respect to a right that it possessed  
153 at the time of the change, the remedy shall be cumulative to the remedy applicable before the  
154 change in class.

155 Section 4. Section **10-2-411** is amended to read:

156 **10-2-411. Disqualification of commission member -- Alternate member.**

157 (1) A member of the boundary commission is disqualified with respect to a protest  
158 before the commission if that member owns property:

159 (a) for a proposed annexation of an area located within a county of the first class:

160 (i) within the area proposed for annexation in a petition that is the subject of the  
161 protest; or

162 (ii) that is in the unincorporated area within 1/2 mile of the area proposed for  
163 annexation in a petition that is the subject of a protest under Subsection 10-2-407(1)(a)[~~(i)~~]  
164 (ii); or

165 (b) for a proposed annexation of an area located in a specified county, within the area  
166 proposed for annexation.

167 (2) If a member is disqualified under Subsection (1), the body that appointed the  
168 disqualified member shall appoint an alternate member to serve on the commission for  
169 purposes of the protest as to which the member is disqualified.

170 Section 5. Section **10-3-101** is amended to read:

171 **10-3-101. Governing body -- Legislative and executive powers.**

172 (1) (a) Each municipality, except a municipality operating under a council-mayor form  
173 of government, shall have a governing body [which] that consists of:

174 (i) in a five-member council form of government, five council members, of which one  
175 is a mayor, who shall vote as a member of the governing body and who exercises ceremonial  
176 and administrative functions, and four are council members;

177 (ii) in a six-member council form of government, six council members, of which one is  
178 a mayor, who shall vote only in the case of a tie or in the appointment or dismissal of a city  
179 manager under Section 10-3-830 and who exercises ceremonial and administrative functions,  
180 and five are council members; and

181 (iii) in a council-manager form of government, a council of five or seven members,  
182 who shall appoint a manager.

183 (b) Each governing body under Subsection (1)(a) shall exercise the legislative and  
184 executive powers of the municipality [unless the municipality is organized with separate  
185 executive and legislative branches of municipal government].

186 (2) The government of a municipality operating under the council-mayor form of  
187 government is vested in two separate, independent, and equal branches of municipal  
188 government consisting of:

189 (a) the mayor, who exercises executive powers and, under the mayor's supervision, the  
190 administrative departments and officers; and

191 (b) a council of five or seven members, who exercise the legislative powers.

192 Section 6. Section **10-3-106** is amended to read:

193 **10-3-106. Governing body in towns.**

194 [The governing body of] Unless it has adopted another form of government under Part  
195 12, Alternate Forms of Municipal Government Act, each town [that has not adopted an  
196 optional form of government under Part 12, Alternative Forms of Municipal Government Act,  
197 shall be a council of five persons one of whom shall be the mayor and the remaining four shall  
198 be council members] shall operate under a five-member council form of government.

199 Section 7. Section **10-3-205** is amended to read:

200 **10-3-205. Election of officers in municipalities operating under a city council**  
201 **form of government.**

202 In each [city of the third, fourth, or fifth class] municipality operating under a  
203 five-member or six-member city council form of government, the election and terms of office  
204 shall be as follows:

205 (1) The offices of mayor and [two] approximately half the council members shall be  
206 filled in municipal elections held in 1977. The terms shall be for four years. These offices  
207 shall be filled every four years in municipal elections.

208 (2) The offices of the [other three] remaining council members shall be filled in a  
209 municipal election held in 1979. The terms shall be for four years. These offices shall be filled  
210 every four years in municipal elections.

211 Section 8. Section **10-3-206** is amended to read:

212 **10-3-206. Election of officers in towns operating under a five-member council**  
213 **form of government.**

214 In [~~towns~~] a town operating under the five-member council form of government, the  
215 election and terms of office of the officers shall be as follows:

216 (1) The offices of mayor and two [~~councilmen~~] council members shall be filled in  
217 municipal elections held in 1977. The terms shall be for four years. These offices shall be filled  
218 every four years in municipal elections.

219 (2) The offices of the other two [~~councilmen~~] council members shall be filled in a  
220 municipal election held in 1979. The terms shall be for four years. These offices shall be filled  
221 every four years in municipal elections.

222 (3) The offices shall be filled in at-large elections which shall be held at the time and in  
223 the manner provided for electing municipal officers.

224 Section 9. Section **10-3-504** is amended to read:

225 **10-3-504. Quorum defined.**

226 (1) The number of members of the governing body necessary to constitute a quorum  
227 is[;]:

228 (a) in[; ~~(1) a city of the first class,~~] a municipality operating under a five-member or  
229 six-member city council form of government or a five-member council-manager form of  
230 government, three or more; or

231 (b) in a seven-member council-manager form of government, four or more.

232 (2) The number of members of the legislative body of a municipality operating under a  
233 council-mayor form of government necessary to constitute a quorum is:

234 (a) for a five-member council-mayor form, three; and

235 (b) for a seven-member council-mayor form, four.

236 [~~(2) a city of the second class, two or more;~~]

237 [~~(3) a city of the third, fourth, or fifth class, three or more;~~]

238 [~~(4) a town, three or more.~~]

239 Section 10. Section **10-3-507** is amended to read:

240 **10-3-507. Minimum vote required.**

241 (1) (a) The minimum number of yes votes required to pass any ordinance[;] or  
242 resolution, or to take any action by the governing body, unless otherwise prescribed by law,

243 shall be a majority of the members of the quorum, but ~~shall~~ may never be less than:

244 ~~[(a)]~~ (i) for a municipality operating under a five-member or six-member council form  
 245 of government or a five-member council-manager form of government, three ~~[in a city of the~~  
 246 ~~first class]; or~~

247 (ii) for a municipality operating under a seven-member council-manager form of  
 248 government, four.

249 (b) The minimum number of yes votes requires to pass an ordinance or resolution or to  
 250 take an action by the legislative body of a municipality operating under a council-mayor form  
 251 of government, unless otherwise prescribed by law, shall be a majority of the members of the  
 252 quorum, but may never be less than:

253 (i) for a five-member council-mayor form, three; and

254 (ii) for a seven-member council-mayor form, four.

255 ~~[(b) two in a city of the second class;]~~

256 ~~[(c) three in a city of the third, fourth, or fifth class; and]~~

257 ~~[(d) three in a town.]~~

258 (2) Any ordinance, resolution, or motion of the governing body having fewer favorable  
 259 votes than required in this section shall be considered defeated and invalid, except a meeting  
 260 may be adjourned to a specific time by a majority vote of the governing body even though such  
 261 majority vote is less than that required in this section.

262 (3) A majority of the members of the governing body, regardless of number, may fill  
 263 any vacancy in the governing body.

264 Section 11. Section **10-3-711** is amended to read:

265 **10-3-711. Publication and posting of ordinances.**

266 (1) Before an ordinance may take effect, the legislative body of each municipality  
 267 adopting an ordinance, except an ordinance enacted under Section 10-3-706, 10-3-707,  
 268 10-3-708, 10-3-709, or 10-3-710, shall:

269 (a) deposit a copy of the ordinance in the office of the municipal recorder; and

270 (b) (i) publish a short summary of the ordinance at least once:

271 (A) in a newspaper published within the municipality; or

272 (B) if there is no newspaper published within the municipality, in a newspaper of  
 273 general circulation within the municipality; or

274 (ii) post a complete copy of the ordinance:  
 275 (A) for a city of the first class, in nine public places within the city; or  
 276 (B) for any other municipality, in three public places within the municipality.

277 (2) (a) Any ordinance, code, or book, other than the state code, relating to building or  
 278 safety standards, municipal functions, administration, control, or regulations, may be adopted  
 279 and shall take effect without further publication or posting, if reference is made to the code or  
 280 book and at least [~~three copies for cities or at least~~] one copy [~~for towns have~~] has been filed  
 281 for use and examination by the public in the office of the recorder or clerk of the city or town  
 282 prior to the adoption of the ordinance by the governing body.

283 (b) Any state law relating to building or safety standards, municipal functions,  
 284 administration, control, or regulations, may be adopted and shall take effect without further  
 285 publication or posting if reference is made to the state code.

286 (c) The ordinance adopting the code or book shall be published in the manner provided  
 287 in this section.

288 Section 12. Section **10-3-1203** is amended to read:

289 **10-3-1203. Election requirements and procedure for organization under optional**  
 290 **form of government.**

291 (1) Except as provided in Subsection 10-2-303(1)(b), each municipality retains the  
 292 form of government under which it is operating unless it changes its form as provided in this  
 293 part.

294 [~~(1)~~] (2) [A] Regardless of its class under Section 10-2-301, a municipality may  
 295 reorganize [under any form of municipal government] as provided [for] in this part [or under  
 296 Section 10-3-103, 10-3-104, 10-3-105, or 10-3-106, regardless of the city's class under Section  
 297 10-2-301.] and may choose as a form of government:

- 298 (a) a five-member council form;
- 299 (b) a six-member council form;
- 300 (c) a council-mayor form; or
- 301 (d) a council-manager form.

302 [~~(2)~~] (3) Reorganization under Subsection [~~(1)~~] (2) shall be by approval of a majority  
 303 of registered voters of the municipality voting in a special election held for that purpose.

304 [~~(3)~~] (4) (a) The proposal may be entered on the ballot by resolution passed by the

305 governing body of the municipality or by initiative as provided for in Title 20A, Chapter 7, Part  
306 5, Local Initiatives - Procedures.

307 (b) The resolution or petition shall state the number, method of election, and initial  
308 terms of council members and shall specify the boundaries of districts substantially equal in  
309 population if some or all council members are to be chosen from these districts.

310 [~~4~~] (5) (a) The proposal shall be voted upon at a special election to be held not more  
311 than twelve months after the resolution is passed or after receipt of a valid initiative petition.

312 (b) The special election shall be held at least 90 days before or after regular municipal  
313 elections.

314 (c) The ballot for the special election to adopt or reject one of the forms of municipal  
315 government shall be in substantially the following form:

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316  
317 Shall (name of municipality), Utah, adopt Yes  
318 the (council-mayor) (council-manager)  
319 (five-member [~~commission~~] council) [~~(three-member commission)~~]  
320 (six-member council) [~~(five-member council)~~] form of  
321 municipal government? No

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322  
323 Section 13. Section **10-3-1208** is amended to read:

324 **10-3-1208. Election of officers -- When new government operative --**  
325 **Compensation of officials without position in new government.**

326 Upon approval of an optional form of government by a municipality pursuant to this  
327 part, election of officers shall be held in the municipality on the Tuesday next following the  
328 first Monday in November following approval of the optional form, or on the same day in the  
329 year next following, whichever day falls in an odd-numbered year. The new government shall  
330 become effective at 12 noon on the first Monday of January following the election of officers.  
331 Elected officials of the municipality whose positions would no longer exist as a result of the  
332 adoption of a form of government provided for in this part shall be paid at the same rate until  
333 the date on which their terms would have expired, if they hold no municipal office in the new  
334 government for which they are regularly compensated. At their option, former [~~commissioners~~  
335 ~~of a first and second class city,~~] council members [~~of third, fourth, or fifth class city, or board~~

336 ~~members of a town]~~ may serve as one of the council members for the remainder of their term.

337 Section 14. Section **10-9-307** is amended to read:

338 **10-9-307. Plans for moderate income housing.**

339 (1) The availability of moderate income housing is an issue of statewide concern. To  
340 this end:

341 (a) [~~municipalities]~~ cities should afford a reasonable opportunity for a variety of  
342 housing, including moderate income housing, to meet the needs of people desiring to live there;  
343 and

344 (b) moderate income housing should be encouraged to allow persons with moderate  
345 incomes to benefit from and to fully participate in all aspects of neighborhood and community  
346 life.

347 (2) As used in this section:

348 (a) "Moderate income housing" means housing occupied or reserved for occupancy by  
349 households with a gross household income equal to or less than ~~§ [f] 80% of [f] §~~ the median  
349a gross

350 income [~~of the metropolitan statistical area]~~ for households of the same size in the county in  
351 which the city is located.

352 (b) "Plan for moderate income housing" or "plan" means a written document adopted  
353 by a [~~municipal]~~ city legislative body that includes:

354 (i) an estimate of the existing supply of moderate income housing located within the  
355 [~~municipality]~~ city;

356 (ii) an estimate of the need for moderate income housing in the [~~municipality]~~ city for  
357 the next five years as revised [~~annually]~~ biennially;

358 (iii) a survey of total residential zoning;

359 (iv) an evaluation of how existing zoning densities affect opportunities for moderate  
360 income housing; and

361 (v) a description of the [~~municipality's]~~ city's program to encourage an adequate supply  
362 of moderate income housing.

363 (3) [~~Before December 31, 1998, each municipal]~~ The legislative body of each city  
364 shall, as part of its general plan, adopt a plan for moderate income housing within that  
365 [~~municipality]~~ city.

366 (4) A plan may provide moderate income housing by any means or combination of

367 techniques which provide a realistic opportunity to meet estimated needs. The plan may include  
368 an analysis of why the means or techniques selected provide a realistic opportunity to meet the  
369 objectives of this section. Such techniques may include:

370 (a) rezoning for densities necessary to assure the economic viability of inclusionary  
371 developments, either through mandatory set asides or density bonuses;

372 (b) infrastructure expansion and rehabilitation that will facilitate the construction of  
373 moderate income housing;

374 (c) rehabilitation of existing uninhabitable housing stock;

375 (d) consideration of waiving construction related fees generally imposed by the  
376 [municipality] city;

377 (e) utilization of state or federal funds or tax incentives to promote the construction of  
378 moderate income housing;

379 (f) utilization of programs offered by the Utah Housing Corporation within that  
380 agency's funding capacity; and

381 (g) utilization of affordable housing programs administered by the Department of  
382 Community and Economic Development.

383 (5) (a) After adoption of a plan for moderate income housing under Subsection (3), the  
384 legislative body of each city [~~that is located within a county of the first or second class and of~~  
385 ~~each other city of the first, second, third, or fourth class shall annually~~] shall biennially:

386 (i) review the plan and its implementation; and

387 (ii) prepare a report setting forth the findings of the review.

388 (b) Each report under Subsection (5)(a)(ii) shall include a description of:

389 (i) efforts made by the [municipality] city to reduce, mitigate, or eliminate local  
390 regulatory barriers to moderate income housing;

391 (ii) actions taken by the [municipality] city to encourage preservation of existing  
392 moderate income housing and development of new moderate income housing;

393 (iii) progress made within the [municipality] city to provide moderate income housing,  
394 as measured by permits issued for new units of moderate income housing; and

395 (iv) efforts made by the [municipality] city to coordinate moderate income housing  
396 plans and actions with neighboring municipalities.

397 (c) The legislative body of each city [~~that is located within a county of the first or~~

398 ~~second class and of each other city of the first, second, third, or fourth class]~~ shall send a copy  
 399 of the report under Subsection (5)(a)(ii) to the Department of Community and Economic  
 400 Development and the association of governments in which the [~~municipality~~] city is located.

401 (6) In a civil action seeking enforcement or claiming a violation of this section, a  
 402 plaintiff may not recover damages but may be awarded injunctive or other equitable relief only.

403 Section 15. Section ~~17-27-307~~ is amended to read:

404 **17-27-307. Plans for moderate income housing.**

405 (1) The availability of moderate income housing is an issue of statewide concern. To  
 406 this end:

407 (a) counties should afford a reasonable opportunity for a variety of housing, including  
 408 moderate income housing, to meet the needs of people desiring to live there; and

409 (b) moderate income housing should be located in all areas of a community to allow  
 410 persons with moderate incomes to benefit from and to fully participate in all aspects of  
 411 neighborhood and community life.

412 (2) As used in this section:

413 (a) "Moderate income housing" means housing occupied or reserved for occupancy by  
 414 households with a gross household income equal to or less than ~~§ [f] 80% of [f] §~~ the median  
 414a gross

415 income of the county statistical area for households of the same size.

416 (b) "Plan for moderate income housing" or "plan" means a written document adopted  
 417 by a county legislative body that includes, but is not limited to:

418 (i) an estimate of the existing supply of moderate income housing located within the  
 419 county;

420 (ii) an estimate of the need for moderate income housing in that county for the next  
 421 five years as revised [~~annually~~] biennially;

422 (iii) a survey of total residential zoning;

423 (iv) an evaluation of how existing zoning densities affect opportunities for moderate  
 424 income housing; and

425 (v) a description of the county's program to encourage an adequate supply of moderate  
 426 income housing.

427 (3) Before December 31, 1998, each county legislative body shall, as part of its general  
 428 plan, adopt a plan for moderate income housing within the unincorporated areas of that county.

429 (4) A plan may provide for moderate income housing by any means or combination of  
430 techniques which provide a realistic opportunity to meet estimated needs. The plan may include  
431 an analysis of why the means or techniques selected provide a realistic opportunity to meet the  
432 objectives of this section. Such techniques may include:

433 (a) rezoning for densities necessary to assure the economic viability of inclusionary  
434 developments, either through mandatory set asides or density bonuses;

435 (b) infrastructure expansion and rehabilitation that will facilitate the construction of  
436 moderate income housing;

437 (c) rehabilitation of existing uninhabitable housing stock;

438 (d) consideration of waiving construction related fees generally imposed by the county;

439 (e) utilization of state or federal funds or tax incentives to promote the construction of  
440 moderate income housing;

441 (f) utilization of programs offered by the Utah Housing Corporation within that  
442 agency's funding capacity; and

443 (g) utilization of affordable housing programs administered by the Department of  
444 Community and Economic Development.

445 (5) (a) After adoption of a plan for moderate income housing under Subsection (3), the  
446 legislative body of each county with a population over 25,000 shall [~~annually~~] biennially:

447 (i) review the plan and its implementation; and

448 (ii) prepare a report setting forth the findings of the review.

449 (b) Each report under Subsection (5)(a)(ii) shall include a description of:

450 (i) efforts made by the county to reduce, mitigate, or eliminate local regulatory barriers  
451 to moderate income housing;

452 (ii) actions taken by the county to encourage preservation of existing moderate income  
453 housing and development of new moderate income housing;

454 (iii) progress made within the county to provide moderate income housing, as  
455 measured by permits issued for new units of moderate income housing; and

456 (iv) efforts made by the county to coordinate moderate income housing plans and  
457 actions with neighboring counties.

458 (c) The legislative body of each county with a population over 25,000 shall send a copy  
459 of the report under Subsection (5)(a)(ii) to the Department of Community and Economic

460 Development and the association of governments in which the county is located.

461 (6) In a civil action seeking enforcement or claiming a violation of this section, a  
462 plaintiff may not recover damages but may be awarded injunctive or other equitable relief only.

463 Section 16. **Repealer.**

464 This bill repeals:

465 Section **10-3-103, Governing body in cities of the first class.**

466 Section **10-3-104, Governing body in cities of the second class.**

467 Section **10-3-105, Governing body in cities of the third, fourth, and fifth class.**

468 Section **10-3-203, Election of officers in cities of the first class.**

469 Section **10-3-204, Election of officers in cities of the second class.**

470 Section **10-3-401, Mayor as a voting member of governing body.**

471 Section **10-3-402, Mayor in third, fourth, or fifth class city -- Mayor may not vote**

472 **-- Exceptions.**

473 Section **10-3-1209, Optional forms defined.**