

**Representative Logan Wilde** proposes the following substitute bill:

**MODERATE INCOME HOUSING AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Logan Wilde**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill amends provisions of the Municipal Land Use, Development, and Management Act and the County Land Use, Development, and Management Act relating to moderate income housing.

**Highlighted Provisions:**

This bill:

- ▶ requires that the general plan of a county or municipality, other than a town, allow and plan for moderate income housing growth;
- ▶ modifies requirements relating to a general plan;
- ▶ repeals provisions requiring a county to conduct a biennial review of the moderate income housing element of a general plan;
- ▶ modifies biennial review and reporting requirements of a municipality in relation to the moderate income housing element of a general plan; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **10-9a-401**, as renumbered and amended by Laws of Utah 2005, Chapter 254

29 **10-9a-403**, as last amended by Laws of Utah 2012, Chapter 212

30 **10-9a-404**, as renumbered and amended by Laws of Utah 2005, Chapter 254

31 **10-9a-408**, as last amended by Laws of Utah 2012, Chapter 212

32 **17-27a-401**, as last amended by Laws of Utah 2016, Chapter 265

33 **17-27a-403**, as last amended by Laws of Utah 2016, Chapter 265

34 **17-27a-404**, as last amended by Laws of Utah 2016, Chapter 265

35 **17-27a-408**, as last amended by Laws of Utah 2012, Chapter 212

36 **35A-8-804**, as last amended by Laws of Utah 2014, Chapter 371

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

39 Section 1. Section **10-9a-401** is amended to read:

40 **10-9a-401. General plan required -- Content.**

41 (1) In order to accomplish the purposes of this chapter, each municipality shall prepare  
42 and adopt a comprehensive, long-range general plan for:

- 43 (a) present and future needs of the municipality; and
- 44 (b) growth and development of all or any part of the land within the municipality.

45 (2) The general plan may provide for:

- 46 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic  
47 activities, aesthetics, and recreational, educational, and cultural opportunities;
- 48 (b) the reduction of the waste of physical, financial, or human resources that result  
49 from either excessive congestion or excessive scattering of population;
- 50 (c) the efficient and economical use, conservation, and production of the supply of:
  - 51 (i) food and water; and
  - 52 (ii) drainage, sanitary, and other facilities and resources;
- 53 (d) the use of energy conservation and solar and renewable energy resources;
- 54 (e) the protection of urban development;
- 55 (f) if the municipality is a town, the protection or promotion of moderate income

56 housing;

- 57 (g) the protection and promotion of air quality;
- 58 (h) historic preservation;
- 59 (i) identifying future uses of land that are likely to require an expansion or significant
- 60 modification of services or facilities provided by each affected entity; and
- 61 (j) an official map.

62 (3) (a) The general plan of a municipality, other than a town, shall allow and plan for

63 moderate income housing growth.

64 (b) On or before July 1, 2019, each of the following that have a general plan that does

65 not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection

66 (3)(a):

- 67 (i) a city of the first, second, third, or fourth class;
- 68 (ii) a city of the fifth class, if the city is located within a county of the first, second, or
- 69 third class;
- 70 (iii) a metro township with a population of 10,000 or more; and
- 71 (iv) a metro township with a population of less than 10,000, if the metro township is
- 72 located within a county of the first, second, or third class.

73 ~~[(3)]~~ (4) Subject to Subsection 10-9a-403(2), the municipality may determine the

74 comprehensiveness, extent, and format of the general plan.

75 Section 2. Section 10-9a-403 is amended to read:

76 **10-9a-403. General plan preparation.**

77 (1) (a) The planning commission shall provide notice, as provided in Section

78 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a

79 general plan or a comprehensive general plan amendment when the planning commission

80 initiates the process of preparing its recommendation.

81 (b) The planning commission shall make and recommend to the legislative body a

82 proposed general plan for the area within the municipality.

83 (c) The plan may include areas outside the boundaries of the municipality if, in the

84 planning commission's judgment, those areas are related to the planning of the municipality's

85 territory.

86 (d) Except as otherwise provided by law or with respect to a municipality's power of

87 eminent domain, when the plan of a municipality involves territory outside the boundaries of

88 the municipality, the municipality may not take action affecting that territory without the  
89 concurrence of the county or other municipalities affected.

90 (2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts,  
91 and descriptive and explanatory matter, shall include the planning commission's  
92 recommendations for the following plan elements:

93 (i) a land use element that:

94 (A) designates the long-term goals and the proposed extent, general distribution, and  
95 location of land for housing, business, industry, agriculture, recreation, education, public  
96 buildings and grounds, open space, and other categories of public and private uses of land as  
97 appropriate; and

98 (B) may include a statement of the projections for and standards of population density  
99 and building intensity recommended for the various land use categories covered by the plan;

100 (ii) a transportation and traffic circulation element consisting of the general location  
101 and extent of existing and proposed freeways, arterial and collector streets, mass transit, and  
102 any other modes of transportation that the planning commission considers appropriate, all  
103 correlated with the population projections and the proposed land use element of the general  
104 plan; and

105 (iii) ~~[for cities, an estimate of the need for the development of additional moderate~~  
106 ~~income housing within the city, and a plan to provide]~~ for a municipality described in  
107 Subsection 10-9a-401(3)(b), a plan that provides a realistic opportunity to meet ~~[estimated~~  
108 ~~needs]~~ the need for additional moderate income housing ~~[if long-term projections for land use~~  
109 ~~and development occur].~~

110 (b) In drafting the moderate income housing element, the planning commission:

111 (i) shall consider the Legislature's determination that ~~[cities]~~ municipalities shall  
112 facilitate a reasonable opportunity for a variety of housing, including moderate income  
113 housing:

114 (A) to meet the needs of people desiring to live ~~[there]~~ in the community; and

115 (B) to allow persons with moderate incomes to benefit from and fully participate in all  
116 aspects of neighborhood and community life; and

117 (ii) for a town, may include, and for other municipalities, shall include, an analysis of  
118 why the recommended means, techniques, or combination of means and techniques provide a

119 realistic opportunity for the development of moderate income housing within [~~the planning~~  
120 ~~horizon~~] the next five years, which means or techniques may include a recommendation to:

121 (A) rezone for densities necessary to assure the production of moderate income  
122 housing;

123 (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the  
124 construction of moderate income housing;

125 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate  
126 income housing;

127 (D) consider general fund subsidies to waive construction related fees that are  
128 otherwise generally imposed by the city;

129 (E) consider utilization of state or federal funds or tax incentives to promote the  
130 construction of moderate income housing;

131 (F) consider utilization of programs offered by the Utah Housing Corporation within  
132 that agency's funding capacity; [~~and~~]

133 (G) consider utilization of affordable housing programs administered by the  
134 Department of Workforce Services[-]; and

135 (H) consider utilization of programs administered by an association of governments  
136 established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

137 (c) In drafting the land use element, the planning commission shall:

138 (i) identify and consider each agriculture protection area within the municipality; and

139 (ii) avoid proposing a use of land within an agriculture protection area that is  
140 inconsistent with or detrimental to the use of the land for agriculture.

141 (3) The proposed general plan may include:

142 (a) an environmental element that addresses:

143 (i) the protection, conservation, development, and use of natural resources, including  
144 the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals,  
145 and other natural resources; and

146 (ii) the reclamation of land, flood control, prevention and control of the pollution of  
147 streams and other waters, regulation of the use of land on hillsides, stream channels and other  
148 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,  
149 protection of watersheds and wetlands, and the mapping of known geologic hazards;

150 (b) a public services and facilities element showing general plans for sewage, water,  
151 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,  
152 police and fire protection, and other public services;

153 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and  
154 programs for:

155 (i) historic preservation;

156 (ii) the diminution or elimination of blight; and

157 (iii) redevelopment of land, including housing sites, business and industrial sites, and  
158 public building sites;

159 (d) an economic element composed of appropriate studies and forecasts, as well as an  
160 economic development plan, which may include review of existing and projected municipal  
161 revenue and expenditures, revenue sources, identification of basic and secondary industry,  
162 primary and secondary market areas, employment, and retail sales activity;

163 (e) recommendations for implementing all or any portion of the general plan, including  
164 the use of land use ordinances, capital improvement plans, community development and  
165 promotion, and any other appropriate action;

166 (f) provisions addressing any of the matters listed in Subsection [10-9a-401\(2\)](#) or [\(3\)](#);  
167 and

168 (g) any other element the municipality considers appropriate.

169 Section 3. Section **10-9a-404** is amended to read:

170 **10-9a-404. Public hearing by planning commission on proposed general plan or**  
171 **amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection**  
172 **by legislative body.**

173 (1) (a) After completing its recommendation for a proposed general plan, or proposal to  
174 amend the general plan, the planning commission shall schedule and hold a public hearing on  
175 the proposed plan or amendment.

176 (b) The planning commission shall provide notice of the public hearing, as required by  
177 Section [10-9a-204](#).

178 (c) After the public hearing, the planning commission may modify the proposed  
179 general plan or amendment.

180 (2) The planning commission shall forward the proposed general plan or amendment to

181 the legislative body.

182 (3) The legislative body may make any revisions to the proposed general plan or  
183 amendment that it considers appropriate.

184 (4) (a) The municipal legislative body may adopt or reject the proposed general plan or  
185 amendment either as proposed by the planning commission or after making any revision that  
186 the municipal legislative body considers appropriate.

187 (b) If the municipal legislative body rejects the proposed general plan or amendment, it  
188 may provide suggestions to the planning commission for its consideration.

189 (5) The legislative body shall adopt:

190 (a) a land use element as provided in Subsection 10-9a-403(2)(a)(i);

191 (b) a transportation and traffic circulation element as provided in Subsection  
192 10-9a-403(2)(a)(ii); and

193 (c) for ~~[all cities]~~ a municipality, other than a town, after considering the factors  
194 included in Subsection 10-9a-403(2)(b)(ii), a plan to provide a realistic opportunity to meet  
195 ~~[estimated needs]~~ the need for additional moderate income housing ~~[if long-term projections~~  
196 ~~for land use and development occur]~~ within the next five years.

197 Section 4. Section 10-9a-408 is amended to read:

198 **10-9a-408. Civil action regarding moderate income housing element of general**  
199 **plan.**

200 (1) The legislative body of ~~[each city]~~ a municipality described in Subsection  
201 10-9a-401(3)(b) shall biennially:

202 (a) review the moderate income housing plan element of ~~[its]~~ the municipality's general  
203 plan and ~~[its]~~ implementation~~[-; and]~~ of that element of the general plan;

204 (b) prepare a report ~~[setting forth]~~ on the findings of the review[-] described in  
205 Subsection (1)(a); and

206 (c) post the report described in Subsection (1)(b) on the municipality's website.

207 (2) ~~[Each report under]~~ The report described in Subsection (1) shall include a  
208 description of:

209 (a) efforts made by the ~~[city]~~ municipality to reduce, mitigate, or eliminate local  
210 regulatory barriers to moderate income housing;

211 (b) actions taken by the ~~[city]~~ municipality to encourage preservation of existing

212 moderate income housing and development of new moderate income housing;

213 (c) progress made within the [city] municipality to provide moderate income housing,  
214 ~~[as measured by permits issued for new units of moderate income housing; and]~~ demonstrated  
215 by analyzing and publishing data on:

216 (i) the number of housing units in the municipality that are at or below:

217 (A) 80% of the adjusted median income for the municipality;

218 (B) 50% of the adjusted median income for the municipality; and

219 (C) 30% of the adjusted median income for the municipality;

220 (ii) the number of housing units in the municipality that are subsidized by the  
221 municipality, the state, or the federal government; and

222 (iii) the number of housing units in the municipality that are deed-restricted;

223 (d) all efforts made by the city to coordinate moderate income housing plans and  
224 actions with neighboring municipalities[-] or associations of governments established by an  
225 interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act;

226 (e) all efforts made by the municipality to utilize a moderate income housing set-aside  
227 from a redevelopment agency, a community development agency, or an economic development  
228 agency;

229 (f) money expended by the municipality to pay or waive construction-related fees  
230 required by the municipality; and

231 (g) programs of the Utah Housing Corporation that were utilized by the municipality.

232 (3) The legislative body of each city shall send a copy of the report under Subsection  
233 (1) to the Department of Workforce Services and the association of governments in which the  
234 city is located.

235 (4) In a civil action seeking enforcement or claiming a violation of this section or of  
236 Subsection 10-9a-404(5)(c), a plaintiff may not recover damages but may be awarded only  
237 injunctive or other equitable relief.

238 Section 5. Section 17-27a-401 is amended to read:

239 **17-27a-401. General plan required -- Content -- Resource management plan --**  
240 **Provisions related to radioactive waste facility.**

241 (1) To accomplish the purposes of this chapter, each county shall prepare and adopt a  
242 comprehensive, long-range general plan:



- 243 (a) for present and future needs of the county;
- 244 (b) (i) for growth and development of all or any part of the land within the  
245 unincorporated portions of the county; or
- 246 (ii) if a county has designated a mountainous planning district, for growth and  
247 development of all or any part of the land within the mountainous planning district; and
- 248 (c) as a basis for communicating and coordinating with the federal government on land  
249 and resource management issues.
- 250 (2) To promote health, safety, and welfare, the general plan may provide for:
- 251 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic  
252 activities, aesthetics, and recreational, educational, and cultural opportunities;
- 253 (b) the reduction of the waste of physical, financial, or human resources that result  
254 from either excessive congestion or excessive scattering of population;
- 255 (c) the efficient and economical use, conservation, and production of the supply of:
- 256 (i) food and water; and
- 257 (ii) drainage, sanitary, and other facilities and resources;
- 258 (d) the use of energy conservation and solar and renewable energy resources;
- 259 (e) the protection of urban development;
- 260 [~~(f) the protection or promotion of moderate income housing;~~]
- 261 [~~(g)~~] (f) the protection and promotion of air quality;
- 262 [~~(h)~~] (g) historic preservation;
- 263 [~~(i)~~] (h) identifying future uses of land that are likely to require an expansion or  
264 significant modification of services or facilities provided by each affected entity; and
- 265 [~~(j)~~] (i) an official map.
- 266 (3) (a) The general plan shall:
- 267 (i) allow and plan for moderate income housing growth; and
- 268 (ii) contain a resource management plan for the public lands, as defined in Section  
269 [63L-6-102](#), within the county.
- 270 (b) On or before July 1, 2019, a county with a general plan that does not comply with  
271 Subsection (3)(a)(i) shall amend the general plan to comply with Subsection (3)(a)(i).
- 272 [~~(b)~~] (c) The resource management plan described in Subsection (3)(a)(ii) shall  
273 address:

- 274 (i) mining;
- 275 (ii) land use;
- 276 (iii) livestock and grazing;
- 277 (iv) irrigation;
- 278 (v) agriculture;
- 279 (vi) fire management;
- 280 (vii) noxious weeds;
- 281 (viii) forest management;
- 282 (ix) water rights;
- 283 (x) ditches and canals;
- 284 (xi) water quality and hydrology;
- 285 (xii) flood plains and river terraces;
- 286 (xiii) wetlands;
- 287 (xiv) riparian areas;
- 288 (xv) predator control;
- 289 (xvi) wildlife;
- 290 (xvii) fisheries;
- 291 (xviii) recreation and tourism;
- 292 (xix) energy resources;
- 293 (xx) mineral resources;
- 294 (xxi) cultural, historical, geological, and paleontological resources;
- 295 (xxii) wilderness;
- 296 (xxiii) wild and scenic rivers;
- 297 (xxiv) threatened, endangered, and sensitive species;
- 298 (xxv) land access;
- 299 (xxvi) law enforcement;
- 300 (xxvii) economic considerations; and
- 301 (xxviii) air.

302 [~~(c)~~] (d) For each item listed under Subsection (3)[~~(b)~~](c), a county's resource  
303 management plan shall:

- 304 (i) establish findings pertaining to the item;

305 (ii) establish defined objectives; and

306 (iii) outline general policies and guidelines on how the objectives described in

307 Subsection (3)~~(c)~~(d)(ii) are to be accomplished.

308 (4) (a) The general plan shall include specific provisions related to any areas within, or

309 partially within, the exterior boundaries of the county, or contiguous to the boundaries of a

310 county, which are proposed for the siting of a storage facility or transfer facility for the

311 placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as

312 these wastes are defined in Section 19-3-303. The provisions shall address the effects of the

313 proposed site upon the health and general welfare of citizens of the state, and shall provide:

314 (i) the information identified in Section 19-3-305;

315 (ii) information supported by credible studies that demonstrates that the provisions of

316 Subsection 19-3-307(2) have been satisfied; and

317 (iii) specific measures to mitigate the effects of high-level nuclear waste and greater

318 than class C radioactive waste and guarantee the health and safety of the citizens of the state.

319 (b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance

320 indicating that all proposals for the siting of a storage facility or transfer facility for the

321 placement of high-level nuclear waste or greater than class C radioactive waste wholly or

322 partially within the county are rejected.

323 (c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.

324 (d) The county shall send a certified copy of the ordinance described in Subsection

325 (4)(b) to the executive director of the Department of Environmental Quality by certified mail

326 within 30 days of enactment.

327 (e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:

328 (i) comply with Subsection (4)(a) as soon as reasonably possible; and

329 (ii) send a certified copy of the repeal to the executive director of the Department of

330 Environmental Quality by certified mail within 30 days after the repeal.

331 (5) The general plan may define the county's local customs, local culture, and the

332 components necessary for the county's economic stability.

333 (6) Subject to Subsection 17-27a-403(2), the county may determine the

334 comprehensiveness, extent, and format of the general plan.

335 (7) If a county has designated a mountainous planning district, the general plan for the

336 mountainous planning district is the controlling plan and takes precedence over a municipality's  
337 general plan for property located within the mountainous planning district.

338 (8) Nothing in this part may be construed to limit the authority of the state to manage  
339 and protect wildlife under Title 23, Wildlife Resources Code of Utah.

340 Section 6. Section **17-27a-403** is amended to read:

341 **17-27a-403. Plan preparation.**

342 (1) (a) The planning commission shall provide notice, as provided in Section  
343 [17-27a-203](#), of its intent to make a recommendation to the county legislative body for a general  
344 plan or a comprehensive general plan amendment when the planning commission initiates the  
345 process of preparing its recommendation.

346 (b) The planning commission shall make and recommend to the legislative body a  
347 proposed general plan for:

348 (i) the unincorporated area within the county; or

349 (ii) if the planning commission is a planning commission for a mountainous planning  
350 district, the mountainous planning district.

351 (c) (i) The plan may include planning for incorporated areas if, in the planning  
352 commission's judgment, they are related to the planning of the unincorporated territory or of  
353 the county as a whole.

354 (ii) Elements of the county plan that address incorporated areas are not an official plan  
355 or part of a municipal plan for any municipality, unless it is recommended by the municipal  
356 planning commission and adopted by the governing body of the municipality.

357 (iii) Notwithstanding Subsection (1)(c)(ii), if property is located in a mountainous  
358 planning district, the plan for the mountainous planning district controls and precedes a  
359 municipal plan, if any, to which the property would be subject.

360 (2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts,  
361 and descriptive and explanatory matter, shall include the planning commission's  
362 recommendations for the following plan elements:

363 (i) a land use element that:

364 (A) designates the long-term goals and the proposed extent, general distribution, and  
365 location of land for housing, business, industry, agriculture, recreation, education, public  
366 buildings and grounds, open space, and other categories of public and private uses of land as

367 appropriate; and

368 (B) may include a statement of the projections for and standards of population density  
369 and building intensity recommended for the various land use categories covered by the plan;

370 (ii) a transportation and traffic circulation element consisting of the general location  
371 and extent of existing and proposed freeways, arterial and collector streets, mass transit, and  
372 any other modes of transportation that the planning commission considers appropriate, all  
373 correlated with the population projections and the proposed land use element of the general  
374 plan;

375 (iii) [~~an estimate of the need~~] a plan for the development of additional moderate  
376 income housing within the unincorporated area of the county or the mountainous planning  
377 district, and a plan to provide a realistic opportunity to meet [~~estimated needs~~] the need for  
378 additional moderate income housing [~~if long-term projections for land use and development~~  
379 ~~occur~~]; and

380 (iv) before May 1, 2017, a resource management plan detailing the findings, objectives,  
381 and policies required by Subsection [17-27a-401\(3\)](#).

382 (b) In drafting the moderate income housing element, the planning commission:

383 (i) shall consider the Legislature's determination that counties should facilitate a  
384 reasonable opportunity for a variety of housing, including moderate income housing:

385 (A) to meet the needs of people desiring to live there; and

386 (B) to allow persons with moderate incomes to benefit from and fully participate in all  
387 aspects of neighborhood and community life; and

388 (ii) [~~may~~] shall include an analysis of why the recommended means, techniques, or  
389 combination of means and techniques provide a realistic opportunity for the development of  
390 moderate income housing within the planning horizon, which means or techniques may include  
391 a recommendation to:

392 (A) rezone for densities necessary to assure the production of moderate income  
393 housing;

394 (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the  
395 construction of moderate income housing;

396 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate  
397 income housing;

398 (D) consider county general fund subsidies to waive construction related fees that are  
399 otherwise generally imposed by the county;

400 (E) consider utilization of state or federal funds or tax incentives to promote the  
401 construction of moderate income housing;

402 (F) consider utilization of programs offered by the Utah Housing Corporation within  
403 that agency's funding capacity; and

404 (G) consider utilization of affordable housing programs administered by the  
405 Department of Workforce Services.

406 (c) In drafting the land use element, the planning commission shall:

407 (i) identify and consider each agriculture protection area within the unincorporated area  
408 of the county or mountainous planning district; and

409 (ii) avoid proposing a use of land within an agriculture protection area that is  
410 inconsistent with or detrimental to the use of the land for agriculture.

411 (3) The proposed general plan may include:

412 (a) an environmental element that addresses:

413 (i) to the extent not covered by the county's resource management plan, the protection,  
414 conservation, development, and use of natural resources, including the quality of air, forests,  
415 soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources;  
416 and

417 (ii) the reclamation of land, flood control, prevention and control of the pollution of  
418 streams and other waters, regulation of the use of land on hillsides, stream channels and other  
419 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,  
420 protection of watersheds and wetlands, and the mapping of known geologic hazards;

421 (b) a public services and facilities element showing general plans for sewage, water,  
422 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,  
423 police and fire protection, and other public services;

424 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and  
425 programs for:

426 (i) historic preservation;

427 (ii) the diminution or elimination of blight; and

428 (iii) redevelopment of land, including housing sites, business and industrial sites, and

429 public building sites;

430 (d) an economic element composed of appropriate studies and forecasts, as well as an  
431 economic development plan, which may include review of existing and projected county  
432 revenue and expenditures, revenue sources, identification of basic and secondary industry,  
433 primary and secondary market areas, employment, and retail sales activity;

434 (e) recommendations for implementing all or any portion of the general plan, including  
435 the use of land use ordinances, capital improvement plans, community development and  
436 promotion, and any other appropriate action;

437 (f) provisions addressing any of the matters listed in Subsection [17-27a-401\(2\)](#) or  
438 [\(3\)\(a\)\(i\)](#); and

439 (g) any other element the county considers appropriate.

440 Section 7. Section **17-27a-404** is amended to read:

441 **17-27a-404. Public hearing by planning commission on proposed general plan or**  
442 **amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection**  
443 **by legislative body.**

444 (1) (a) After completing its recommendation for a proposed general plan, or proposal to  
445 amend the general plan, the planning commission shall schedule and hold a public hearing on  
446 the proposed plan or amendment.

447 (b) The planning commission shall provide notice of the public hearing, as required by  
448 Section [17-27a-204](#).

449 (c) After the public hearing, the planning commission may modify the proposed  
450 general plan or amendment.

451 (2) The planning commission shall forward the proposed general plan or amendment to  
452 the legislative body.

453 (3) (a) As provided by local ordinance and by Section [17-27a-204](#), the legislative body  
454 shall provide notice of its intent to consider the general plan proposal.

455 (b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative  
456 body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan  
457 regarding Subsection [17-27a-401\(4\)](#). The hearing procedure shall comply with this Subsection  
458 (3)(b).

459 (ii) The hearing format shall allow adequate time for public comment at the actual

460 public hearing, and shall also allow for public comment in writing to be submitted to the  
461 legislative body for not fewer than 90 days after the date of the public hearing.

462 (c) (i) The legislative body shall give notice of the hearing in accordance with this  
463 Subsection (3) when the proposed plan provisions required by Subsection 17-27a-401(4) are  
464 complete.

465 (ii) Direct notice of the hearing shall be given, in writing, to the governor, members of  
466 the state Legislature, executive director of the Department of Environmental Quality, the state  
467 planning coordinator, the Resource Development Coordinating Committee, and any other  
468 citizens or entities who specifically request notice in writing.

469 (iii) Public notice shall be given by publication:

470 (A) in at least one major Utah newspaper having broad general circulation in the state;

471 (B) in at least one Utah newspaper having a general circulation focused mainly on the  
472 county where the proposed high-level nuclear waste or greater than class C radioactive waste  
473 site is to be located; and

474 (C) on the Utah Public Notice Website created in Section 63F-1-701.

475 (iv) The notice shall be published to allow reasonable time for interested parties and  
476 the state to evaluate the information regarding the provisions of Subsection 17-27a-401(4),  
477 including:

478 (A) in a newspaper described in Subsection (3)(c)(iii)(A), no less than 180 days before  
479 the date of the hearing to be held under this Subsection (3); and

480 (B) publication described in Subsection (3)(c)(iii)(B) or (C) for 180 days before the  
481 date of the hearing to be held under this Subsection (3).

482 (4) (a) After the public hearing required under this section, the legislative body may  
483 make any revisions to the proposed general plan that it considers appropriate.

484 (b) The legislative body shall respond in writing and in a substantive manner to all  
485 those providing comments as a result of the hearing required by Subsection (3).

486 (5) (a) The county legislative body may adopt or reject the proposed general plan or  
487 amendment either as proposed by the planning commission or after making any revision the  
488 county legislative body considers appropriate.

489 (b) If the county legislative body rejects the proposed general plan or amendment, it  
490 may provide suggestions to the planning commission for its consideration.



491 (6) The legislative body shall adopt:

492 (a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

493 (b) a transportation and traffic circulation element as provided in Subsection  
494 17-27a-403(2)(a)(ii);

495 (c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to  
496 provide a realistic opportunity to meet ~~[estimated needs]~~ the need for additional moderate  
497 income housing ~~[if long-term projections for land use and development occur]~~; and

498 (d) before August 1, 2017, a resource management plan as provided by Subsection  
499 17-27a-403(2)(a)(iv).

500 Section 8. Section 17-27a-408 is amended to read:

501 **17-27a-408. Civil action regarding moderate income housing element of general**  
502 **plan.**

503 ~~[(1) The legislative body of each county with a population over 25,000 shall~~  
504 ~~biennially:]~~

505 ~~[(a) review the moderate income housing plan element of its general plan and its~~  
506 ~~implementation; and]~~

507 ~~[(b) prepare a report setting forth the findings of the review:]~~

508 ~~[(2) Each report under Subsection (1) shall include a description of:]~~

509 ~~[(a) efforts made by the county to reduce, mitigate, or eliminate local regulatory~~  
510 ~~barriers to moderate income housing;]~~

511 ~~[(b) actions taken by the county to encourage preservation of existing moderate income~~  
512 ~~housing and development of new moderate income housing;]~~

513 ~~[(c) progress made within the county to provide moderate income housing, as~~  
514 ~~measured by permits issued for new units of moderate income housing; and]~~

515 ~~[(d) efforts made by the county to coordinate moderate income housing plans and~~  
516 ~~actions with neighboring counties and municipalities.]~~

517 ~~[(3) The legislative body of each county with a population over 25,000 shall send a~~  
518 ~~copy of the report under Subsection (1) to the Department of Workforce Services and the~~  
519 ~~association of governments in which the county is located.]~~

520 ~~[(4)]~~ In a civil action seeking enforcement or claiming a violation of this section or of  
521 Subsection 17-27a-404(6)(c), a plaintiff may not recover damages but may be awarded only

522 injunctive or other equitable relief.

523 Section 9. Section **35A-8-804** is amended to read:

524 **35A-8-804. Technical assistance to political subdivisions for housing plan.**

525 (1) Within appropriations from the Legislature, the division shall establish a program  
526 to assist municipalities to [~~meet the requirements of Section 10-9a-408~~] comply with the  
527 moderate income housing requirements described in Section 10-9a-403 and counties to [~~meet~~  
528 ~~the requirements of Section 17-27a-408~~] comply with the moderate income housing  
529 requirements described in Section 17-27a-403.

530 (2) Assistance under this section may include:

531 (a) financial assistance for the cost of developing a plan for low and moderate income  
532 housing;

533 (b) information on how to meet present and prospective needs for low and moderate  
534 income housing; and

535 (c) technical advice and consultation on how to facilitate the creation of low and  
536 moderate income housing.

537 (3) The division shall submit an annual report to the department regarding the scope,  
538 amount, and type of assistance provided to municipalities and counties under this section,  
539 including the number of low and moderate income housing units constructed or rehabilitated  
540 within the state, for inclusion in the department's annual written report described in Section  
541 **35A-1-109.**