

Senator Curtis S. Bramble proposes the following substitute bill:

MODERATE INCOME HOUSING AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Logan Wilde

Senate Sponsor: Curtis S. Bramble

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:

This bill provides a coordination clause.



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

37 **Utah Code Sections Affected by Coordination Clause:**

38 **10-9a-408**, as last amended by Laws of Utah 2012, Chapter 212



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

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

42 **10-9a-401. General plan required -- Content.**

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

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

47 (2) The general plan may provide for:

48 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic
49 activities, aesthetics, and recreational, educational, and cultural opportunities;

50 (b) the reduction of the waste of physical, financial, or human resources that result
51 from either excessive congestion or excessive scattering of population;

52 (c) the efficient and economical use, conservation, and production of the supply of:

- 53 (i) food and water; and
- 54 (ii) drainage, sanitary, and other facilities and resources;
- 55 (d) the use of energy conservation and solar and renewable energy resources;
- 56 (e) the protection of urban development;

- 57 (f) if the municipality is a town, the protection or promotion of moderate income
- 58 housing;
- 59 (g) the protection and promotion of air quality;
- 60 (h) historic preservation;
- 61 (i) identifying future uses of land that are likely to require an expansion or significant
- 62 modification of services or facilities provided by each affected entity; and
- 63 (j) an official map.

64 (3) (a) The general plan of a municipality, other than a town, shall plan for moderate

65 income housing growth.

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

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

68 (3)(a):

- 69 (i) a city of the first, second, third, or fourth class;
- 70 (ii) a city of the fifth class with a population of 5,000 or more, if the city is located
- 71 within a county of the first, second, or third class;
- 72 (iii) a metro township with a population of 5,000 or more; and
- 73 (iv) a metro township with a population of less than 5,000, if the metro township is
- 74 located within a county of the first, second, or third class.

75 (c) The population figures described in Subsection (3)(b)(ii), (iii), and (iv) shall be

76 derived from:

- 77 (i) the most recent official census or census estimate of the United States Census
- 78 Bureau; or
- 79 (ii) if a population figure is not available under Subsection (3)(c)(i), an estimate of the
- 80 Utah Population Estimates Committee.

81 [~~3~~] (4) Subject to Subsection 10-9a-403(2), the municipality may determine the

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

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

84 **10-9a-403. General plan preparation.**

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

86 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a

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

88 initiates the process of preparing its recommendation.

89 (b) The planning commission shall make and recommend to the legislative body a
90 proposed general plan for the area within the municipality.

91 (c) The plan may include areas outside the boundaries of the municipality if, in the
92 planning commission's judgment, those areas are related to the planning of the municipality's
93 territory.

94 (d) Except as otherwise provided by law or with respect to a municipality's power of
95 eminent domain, when the plan of a municipality involves territory outside the boundaries of
96 the municipality, the municipality may not take action affecting that territory without the
97 concurrence of the county or other municipalities affected.

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

101 (i) a land use element that:

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

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

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

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

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

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

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

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

125 (ii) for a town, may include, and for other municipalities, shall include, an analysis of
126 why the recommended means, techniques, or combination of means and techniques provide a
127 realistic opportunity for the development of moderate income housing within [~~the planning~~
128 ~~horizon~~] the next five years, which means or techniques may include a recommendation to:

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

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

133 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate
134 income housing;

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

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

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

141 (G) consider utilization of affordable housing programs administered by the
142 Department of Workforce Services[~~;~~]; and

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

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

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

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

149 (3) The proposed general plan may include:

- 150 (a) an environmental element that addresses:
- 151 (i) the protection, conservation, development, and use of natural resources, including
- 152 the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals,
- 153 and other natural resources; and
- 154 (ii) the reclamation of land, flood control, prevention and control of the pollution of
- 155 streams and other waters, regulation of the use of land on hillsides, stream channels and other
- 156 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,
- 157 protection of watersheds and wetlands, and the mapping of known geologic hazards;
- 158 (b) a public services and facilities element showing general plans for sewage, water,
- 159 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,
- 160 police and fire protection, and other public services;
- 161 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and
- 162 programs for:
- 163 (i) historic preservation;
- 164 (ii) the diminution or elimination of blight; and
- 165 (iii) redevelopment of land, including housing sites, business and industrial sites, and
- 166 public building sites;
- 167 (d) an economic element composed of appropriate studies and forecasts, as well as an
- 168 economic development plan, which may include review of existing and projected municipal
- 169 revenue and expenditures, revenue sources, identification of basic and secondary industry,
- 170 primary and secondary market areas, employment, and retail sales activity;
- 171 (e) recommendations for implementing all or any portion of the general plan, including
- 172 the use of land use ordinances, capital improvement plans, community development and
- 173 promotion, and any other appropriate action;
- 174 (f) provisions addressing any of the matters listed in Subsection [10-9a-401\(2\)](#) or [\(3\)](#);
- 175 and
- 176 (g) any other element the municipality considers appropriate.

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

178 **10-9a-404. Public hearing by planning commission on proposed general plan or**

179 **amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection**

180 **by legislative body.**

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

184 (b) The planning commission shall provide notice of the public hearing, as required by
185 Section 10-9a-204.

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

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

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

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

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

197 (5) The legislative body shall adopt:

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

199 (b) a transportation and traffic circulation element as provided in Subsection
200 10-9a-403(2)(a)(ii); and

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

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

206 **10-9a-408. Civil action regarding moderate income housing element of general**
207 **plan.**

208 (1) The legislative body of ~~[each city]~~ a municipality described in Subsection
209 10-9a-401(3)(b) shall biennially:

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

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

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

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

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

219 (b) actions taken by the [city] municipality to encourage preservation of existing
220 moderate income housing and development of new moderate income housing;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

247 **17-27a-401. General plan required -- Content -- Resource management plan --**
 248 **Provisions related to radioactive waste facility.**

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

251 (a) for present and future needs of the county;

252 (b) (i) for growth and development of all or any part of the land within the
 253 unincorporated portions of the county; or

254 (ii) if a county has designated a mountainous planning district, for growth and
 255 development of all or any part of the land within the mountainous planning district; and

256 (c) as a basis for communicating and coordinating with the federal government on land
 257 and resource management issues.

258 (2) To promote health, safety, and welfare, the general plan may provide for:

259 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic
 260 activities, aesthetics, and recreational, educational, and cultural opportunities;

261 (b) the reduction of the waste of physical, financial, or human resources that result
 262 from either excessive congestion or excessive scattering of population;

263 (c) the efficient and economical use, conservation, and production of the supply of:

264 (i) food and water; and

265 (ii) drainage, sanitary, and other facilities and resources;

266 (d) the use of energy conservation and solar and renewable energy resources;

267 (e) the protection of urban development;

268 [~~(f) the protection or promotion of moderate income housing;~~]

269 [~~(g)~~] (f) the protection and promotion of air quality;

270 [~~(h)~~] (g) historic preservation;

271 [~~(i)~~] (h) identifying future uses of land that are likely to require an expansion or
 272 significant modification of services or facilities provided by each affected entity; and

273 [~~(j)~~] (i) an official map.

274 (3) (a) The general plan shall:

275 (i) allow and plan for moderate income housing growth; and

276 (ii) contain a resource management plan for the public lands, as defined in Section

277 [63L-6-102](#), within the county.

278 (b) On or before July 1, 2019, a county with a general plan that does not comply with

279 Subsection (3)(a)(i) shall amend the general plan to comply with Subsection (3)(a)(i).

280 ~~[(b)]~~ (c) The resource management plan described in Subsection (3)(a)(ii) shall

281 address:

282 (i) mining;

283 (ii) land use;

284 (iii) livestock and grazing;

285 (iv) irrigation;

286 (v) agriculture;

287 (vi) fire management;

288 (vii) noxious weeds;

289 (viii) forest management;

290 (ix) water rights;

291 (x) ditches and canals;

292 (xi) water quality and hydrology;

293 (xii) flood plains and river terraces;

294 (xiii) wetlands;

295 (xiv) riparian areas;

296 (xv) predator control;

297 (xvi) wildlife;

298 (xvii) fisheries;

299 (xviii) recreation and tourism;

300 (xix) energy resources;

301 (xx) mineral resources;

302 (xxi) cultural, historical, geological, and paleontological resources;

303 (xxii) wilderness;

304 (xxiii) wild and scenic rivers;

305 (xxiv) threatened, endangered, and sensitive species;

306 (xxv) land access;

307 (xxvi) law enforcement;

308 (xxvii) economic considerations; and

309 (xxviii) air.

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

312 (i) establish findings pertaining to the item;

313 (ii) establish defined objectives; and

314 (iii) outline general policies and guidelines on how the objectives described in
315 Subsection (3)~~[(e)]~~(d)(ii) are to be accomplished.

316 (4) (a) The general plan shall include specific provisions related to any areas within, or
317 partially within, the exterior boundaries of the county, or contiguous to the boundaries of a
318 county, which are proposed for the siting of a storage facility or transfer facility for the
319 placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as
320 these wastes are defined in Section 19-3-303. The provisions shall address the effects of the
321 proposed site upon the health and general welfare of citizens of the state, and shall provide:

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

323 (ii) information supported by credible studies that demonstrates that the provisions of
324 Subsection 19-3-307(2) have been satisfied; and

325 (iii) specific measures to mitigate the effects of high-level nuclear waste and greater
326 than class C radioactive waste and guarantee the health and safety of the citizens of the state.

327 (b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance
328 indicating that all proposals for the siting of a storage facility or transfer facility for the
329 placement of high-level nuclear waste or greater than class C radioactive waste wholly or
330 partially within the county are rejected.

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

332 (d) The county shall send a certified copy of the ordinance described in Subsection
333 (4)(b) to the executive director of the Department of Environmental Quality by certified mail
334 within 30 days of enactment.

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

336 (i) comply with Subsection (4)(a) as soon as reasonably possible; and
337 (ii) send a certified copy of the repeal to the executive director of the Department of
338 Environmental Quality by certified mail within 30 days after the repeal.

339 (5) The general plan may define the county's local customs, local culture, and the
340 components necessary for the county's economic stability.

341 (6) Subject to Subsection 17-27a-403(2), the county may determine the
342 comprehensiveness, extent, and format of the general plan.

343 (7) If a county has designated a mountainous planning district, the general plan for the
344 mountainous planning district is the controlling plan and takes precedence over a municipality's
345 general plan for property located within the mountainous planning district.

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

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

349 **17-27a-403. Plan preparation.**

350 (1) (a) The planning commission shall provide notice, as provided in Section
351 17-27a-203, of its intent to make a recommendation to the county legislative body for a general
352 plan or a comprehensive general plan amendment when the planning commission initiates the
353 process of preparing its recommendation.

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

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

357 (ii) if the planning commission is a planning commission for a mountainous planning
358 district, the mountainous planning district.

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

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

365 (iii) Notwithstanding Subsection (1)(c)(ii), if property is located in a mountainous
366 planning district, the plan for the mountainous planning district controls and precedes a

367 municipal plan, if any, to which the property would be subject.

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

371 (i) a land use element that:

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

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

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

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

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

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

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

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

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

396 (ii) ~~[may]~~ shall include an analysis of why the recommended means, techniques, or
397 combination of means and techniques provide a realistic opportunity for the development of

398 moderate income housing within the planning horizon, which means or techniques may include
399 a recommendation to:

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

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

404 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate
405 income housing;

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

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

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

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

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

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

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

419 (3) The proposed general plan may include:

420 (a) an environmental element that addresses:

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

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

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

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

434 (i) historic preservation;

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

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

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

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

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

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

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

449 **17-27a-404. Public hearing by planning commission on proposed general plan or**
450 **amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection**
451 **by legislative body.**

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

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

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

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

460 the legislative body.

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

463 (b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative
464 body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan
465 regarding Subsection 17-27a-401(4). The hearing procedure shall comply with this Subsection
466 (3)(b).

467 (ii) The hearing format shall allow adequate time for public comment at the actual
468 public hearing, and shall also allow for public comment in writing to be submitted to the
469 legislative body for not fewer than 90 days after the date of the public hearing.

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

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

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

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

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

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

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

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

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

490 (4) (a) After the public hearing required under this section, the legislative body may

491 make any revisions to the proposed general plan that it considers appropriate.

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

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

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

499 (6) The legislative body shall adopt:

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

501 (b) a transportation and traffic circulation element as provided in Subsection
502 17-27a-403(2)(a)(ii);

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

506 (d) before August 1, 2017, a resource management plan as provided by Subsection
507 17-27a-403(2)(a)(iv).

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

509 **17-27a-408. Civil action regarding moderate income housing element of general**
510 **plan.**

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

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

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

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

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

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

521 ~~[(c) progress made within the county to provide moderate income housing, as~~

522 ~~measured by permits issued for new units of moderate income housing; and]~~

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

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

528 ~~[(4)]~~ In a civil action seeking enforcement or claiming a violation of this section or of
529 Subsection [17-27a-404](#)(6)(c), a plaintiff may not recover damages but may be awarded only
530 injunctive or other equitable relief.

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

532 **35A-8-804. Technical assistance to political subdivisions for housing plan.**

533 (1) Within appropriations from the Legislature, the division shall establish a program
534 to assist municipalities to ~~[meet the requirements of Section [10-9a-408](#)]~~ comply with the
535 moderate income housing requirements described in Section [10-9a-403](#) and counties to ~~[meet~~
536 ~~the requirements of Section [17-27a-408](#)]~~ comply with the moderate income housing
537 requirements described in Section [17-27a-403](#).

538 (2) Assistance under this section may include:

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

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

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

545 (3) The division shall submit an annual report to the department regarding the scope,
546 amount, and type of assistance provided to municipalities and counties under this section,
547 including the number of low and moderate income housing units constructed or rehabilitated
548 within the state, for inclusion in the department's annual written report described in Section
549 [35A-1-109](#).

550 Section 10. **Coordinating H.B. 259 with H.B. 15 -- Superseding substantive and**
551 **technical amendments.**

552 If this H.B. 259 and H.B. 15, Community Reinvestment Agency Amendments, both

553 pass and become law, it is the intent of the Legislature that the amendments to Section
554 10-9a-408 in H.B. 259 supersede the amendments to Section 10-9a-408 in H.B. 15, when the
555 Office of Legislative Research and General Counsel prepares the Utah Code database for
556 publication.