**1117-S2.E AMS HLG S4855.1 - NOT FOR FLOOR USE**

**E2SHB 1117** - S COMM AMD

By Committee on Housing & Local Government

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) Salmon and other anadromous fish have a special historical, economic, and cultural importance to Washington;

(b) As a consequence of their centrality to cultural identity and treaty-protected rights reserved to Indian tribes, and the efforts required to be undertaken in order to preserve those rights and recover threatened and endangered species, the preservation and recovery of salmonid populations is a uniquely important legislative priority;

(c) Nontribal commercial and recreational fishing and salmon viewing contribute significantly to the economic and social stability and well-being of Washington residents; and

(d) Ensuring that future development, redevelopment, and population growth are compatible with the long-term survival and recovery of anadromous fish species is essential to Washington's continued vibrancy and quality of life.

(2) Therefore, it is the intent of the legislature to support the protection and recovery of salmon through:

(a) The adoption and state support of net ecological gain at the WRIA scale and incorporation of applicable elements of the local salmon recovery plan through local government growth and shoreline planning efforts;

(b) Ensuring that proportional compensatory mitigation for direct and indirect impacts that are predicted to occur over the expected life of the project to wetlands, water, and fish and wildlife habitat conservation areas and other elements of the environment that affect salmon habitat achieves its desired outcomes; and

(c) Providing local governments the full resources needed in the form of funding and technical support to achieve the goals and requirements of this act.

**Sec.**  RCW 36.70A.030 and 2021 c 254 s 6 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Affordable housing" means, unless the context clearly indicates otherwise, residential housing whose monthly costs, including utilities other than telephone, do not exceed thirty percent of the monthly income of a household whose income is:

(a) For rental housing, sixty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development; or

(b) For owner-occupied housing, eighty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(3) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(4) "City" means any city or town, including a code city.

(5) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(6) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

(7) "Department" means the department of commerce.

(8) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(9) "Emergency housing" means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement.

(10) "Emergency shelter" means a facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations.

(11) "Extremely low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below thirty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(12) "Forestland" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forestland is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forestland to other uses.

(13) "Freight rail dependent uses" means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development for purposes of this chapter. "Freight rail dependent uses" does not include buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of coal, liquefied natural gas, or "crude oil" as defined in RCW 90.56.010.

(14) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(15) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(16) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(17) "Minerals" include gravel, sand, and valuable metallic substances.

(18) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(19) "Permanent supportive housing" is subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

(20) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(21) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(22) ((~~"Recreational land" means land so designated under RCW 36.70A.1701 and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.~~

~~(23)~~)) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife ((~~and~~)) for fish and wildlife habitat, and with the advancement of net ecological gain;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection and restoration of natural surface water flows and groundwater and surface water recharge and discharge areas.

((~~(24)~~)) (23) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

((~~(25)~~)) (24) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

((~~(26)~~)) (25) "Short line railroad" means those railroad lines designated class II or class III by the United States surface transportation board.

((~~(27)~~)) (26) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

((~~(28)~~)) (27) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

((~~(29)~~)) (28) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

((~~(30)~~)) (29) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below fifty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

((~~(31)~~)) (30) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

(31) "Net ecological gain" means a standard for a comprehensive plan adopted under this chapter in which the ecological integrity within each WRIA or independent natural drainage that flows directly into marine waters of the planning area is improved and enhanced during the planning period as a result of the measures adopted by the planning body, and other activities that occur within the planning jurisdiction including, but not limited to, activities identified in the applicable salmon recovery plan, including no net loss of ecological function with respect to the permitting of individual projects in order to advance salmon recovery and other environmental benefits. The advancement of ecological function and advancement of net ecological gain within each WRIA or independent natural drainage that flows directly into marine waters will occur through the appropriate selection and implementation of publicly funded projects, including voluntary grant programs, salmon recovery projects, ecological improvements made through the municipal stormwater permit process, and investments made as a result of the capital facilities element and transportation element of the comprehensive plan.

(32) "Properly functioning watershed conditions" are watershed conditions that are necessary for salmon to survive and include but are not limited to the following functions: Forest cover, floodplains, instream habitats, fish passage, riparian habitats, water quality and quantity, and impervious surface levels.

(33) "Watershed" means a water resource inventory area or "WRIA" established consistent with chapter 90.82 RCW, subbasin watershed therein, or an independent natural drainage that flows directly into marine waters.

(34) "Compensatory mitigation" means a measurement of the size, temporal duration, or quality of mitigation required by a permitting agency in order to ensure that impacts to regulated aspects of the environment from an activity subject to a permit are fully mitigated over the life of the activity or project subject to the permit.

**Sec.**  RCW 36.70A.020 and 2021 c 254 s 1 are each amended to read as follows:

The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW 36.70A.040. The following goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans and development regulations:

(1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

(2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

(3) Transportation. Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.

(4) Housing. Plan for and accommodate housing affordable to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

(5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

(6) Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

(7) Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

(8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forestlands and productive agricultural lands, and discourage incompatible uses.

(9) Open space and recreation. Retain open space((~~,~~)); enhance recreational opportunities((~~,~~)); conserve, protect, restore, and contribute to net ecological gain with respect to fish and wildlife habitat((~~,~~)) in accordance with rules adopted pursuant to this act; increase access to natural resource lands and water((~~,~~)); and develop parks and recreation facilities.

(10) Environment. Protect, restore, and contribute to net ecological gain to the environment in accordance with rules adopted pursuant to this act and enhance the state's high quality of life, including air and water quality, ((~~and~~)) the availability of water, and fish and wildlife habitat.

(11) Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

(13) Historic preservation. Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance.

(14) Salmon recovery. Support the recovery and enhancement of salmon and steelhead stocks through the advancement of net ecological gain from planning under this chapter in accordance with rules adopted pursuant to this act in order to fulfill Washington's tribal treaty obligations, support nontribal commercial and recreational fisheries, and achieve the delisting and recovery of threatened or endangered salmon and steelhead runs under the federal endangered species act.

**Sec.**  RCW 36.70A.070 and 2021 c 254 s 2 are each amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140. Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1)(a) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of groundwater used for public water supplies. Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity. Where applicable, the land use element shall review drainage, flooding, and stormwater runoff in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(b) Beginning with plan updates adopted after January 1, 2024, in counties located to the west of the crest of the Cascade mountains, the land use element must, in accordance with rules adopted pursuant to this act, include a strategy that, through a combination of regulatory and nonregulatory programs, achieves net ecological gain of in-water and upland habitats that contribute to anadromous fish habitat on a watershed basis, including applicable elements of salmon recovery plans adopted pursuant to either the federal endangered species act or chapter 77.85 RCW, such as vegetation, water quantity, water quality, and other natural features. This strategy must be developed after providing notice and an opportunity to consult to each federally recognized Indian tribe with property, tribal reservation land, or usual and accustomed fishing areas in, adjacent to, or directly affected by the planning jurisdiction. The advancement of net ecological gain may rely on activities carried out by a county or city that are physically located outside the county or city if the activities occur within the same watershed. Development regulations adopted pursuant to this section may not require individual private projects to contribute to net ecological gain. Development regulations adopted pursuant to this section must require that projects owned by public entities including, but not limited to, state agencies, counties, cities, towns, public utility districts, schools, libraries, and transportation agencies, contribute to net ecological gain. In the course of complying with development regulations adopted pursuant to this subsection, projects owned by public entities' net ecological gain contribution must be additive to salmon recovery or restoration projects that are funded and implemented by other entities.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that:

(a) Includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth, as provided by the department of commerce, including:

(i) Units for moderate, low, very low, and extremely low-income households; and

(ii) Emergency housing, emergency shelters, and permanent supportive housing;

(b) Includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences, and within an urban growth area boundary, moderate density housing options including((~~[,]~~)), but not limited to, duplexes, triplexes, and townhomes;

(c) Identifies sufficient capacity of land for housing including, but not limited to, government-assisted housing, housing for moderate, low, very low, and extremely low-income households, manufactured housing, multifamily housing, group homes, foster care facilities, emergency housing, emergency shelters, permanent supportive housing, and within an urban growth area boundary, consideration of duplexes, triplexes, and townhomes;

(d) Makes adequate provisions for existing and projected needs of all economic segments of the community, including:

(i) Incorporating consideration for low, very low, extremely low, and moderate-income households;

(ii) Documenting programs and actions needed to achieve housing availability including gaps in local funding, barriers such as development regulations, and other limitations;

(iii) Consideration of housing locations in relation to employment location; and

(iv) Consideration of the role of accessory dwelling units in meeting housing needs;

(e) Identifies local policies and regulations that result in racially disparate impacts, displacement, and exclusion in housing, including:

(i) Zoning that may have a discriminatory effect;

(ii) Disinvestment; and

(iii) Infrastructure availability;

(f) Identifies and implements policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion in housing caused by local policies, plans, and actions;

(g) Identifies areas that may be at higher risk of displacement from market forces that occur with changes to zoning development regulations and capital investments; and

(h) Establishes antidisplacement policies, with consideration given to the preservation of historical and cultural communities as well as investments in low, very low, extremely low, and moderate-income housing; equitable development initiatives; inclusionary zoning; community planning requirements; tenant protections; land disposition policies; and consideration of land that may be used for affordable housing.

In counties and cities subject to the review and evaluation requirements of RCW 36.70A.215, any revision to the housing element shall include consideration of prior review and evaluation reports and any reasonable measures identified. The housing element should link jurisdictional goals with overall county goals to ensure that the housing element goals are met.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities that includes a schedule for the elimination of all identified fish passage barriers, consistent with the prioritization schedule identified by the fish passage barrier removal board established pursuant to RCW 77.95.160, or by the local jurisdiction with coordination and collaboration from the department of fish and wildlife and the local federally recognized tribe or tribes, but not otherwise included in the transportation and open space elements; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element. For the purposes of the requirement in this subsection to include a schedule for the elimination of all identified fish passage barriers, "capital facilities" do not include any facility covered by a hydropower license issued by the federal energy regulatory commission or included in a habitat conservation plan approved under the federal endangered species act.

(4) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural economic advancement, densities, and uses that are not characterized by urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

(i) Containing or otherwise controlling rural development;

(ii) Assuring visual compatibility of rural development with the surrounding rural area;

(iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;

(iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and groundwater resources; and

(v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(A) A commercial, industrial, residential, shoreline, or mixed-use area are subject to the requirements of (d)(iv) of this subsection, but are not subject to the requirements of (c)(ii) and (iii) of this subsection.

(B) Any development or redevelopment other than an industrial area or an industrial use within a mixed-use area or an industrial area under this subsection (5)(d)(i) must be principally designed to serve the existing and projected rural population.

(C) Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5);

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to RCW 36.70A.030((~~(23)~~)) (22). Rural counties may also allow new small-scale businesses to utilize a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area as defined by the local government according to RCW 36.70A.030((~~(23)~~)) (22). Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary, the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries, such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element.

(a) The transportation element shall include the following subelements:

(i) Land use assumptions used in estimating travel;

(ii) Estimated traffic impacts to state-owned transportation facilities resulting from land use assumptions to assist the department of transportation in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

(iii) Facilities and services needs, including:

(A) An inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels as a basis for future planning. This inventory must include state-owned transportation facilities within the city or county's jurisdictional boundaries;

(B) Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(C) For state-owned transportation facilities, level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, or transit program and the office of financial management's ten-year investment program. The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

(D) Specific actions and requirements for bringing into compliance locally owned transportation facilities or services that are below an established level of service standard;

(E) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(F) Identification of state and local system needs to meet current and future demands. System needs must include a schedule for the elimination of all identified fish passage barriers, consistent with the prioritization schedule either identified by the fish passage barrier removal board established pursuant to RCW 77.95.160, or by the local jurisdiction with coordination and collaboration from the department of fish and wildlife and local federally recognized tribes, identified on the local transportation system. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW. For the purposes of the requirement in this subsection to include a schedule for the elimination of all identified fish passage barriers, "system needs" may not be construed so as to include any facility covered by a hydropower license issued by the federal energy regulatory commission or included in a habitat conservation plan approved under the federal endangered species act;

(iv) Finance, including:

(A) An analysis of funding capability to judge needs against probable funding resources;

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the ten-year investment program developed by the office of financial management as required by RCW 47.05.030;

(C) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(v) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(vi) Demand-management strategies;

(vii) Pedestrian and bicycle component to include collaborative efforts to identify and designate planned improvements for pedestrian and bicycle facilities and corridors that address and encourage enhanced community access and promote healthy lifestyles.

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride-sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6), "concurrent with the development" means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years. If the collection of impact fees is delayed under RCW 82.02.050(3), the six-year period required by this subsection (6)(b) must begin after full payment of all impact fees is due to the county or city.

(c) The transportation element described in this subsection (6), the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems, and the ten-year investment program required by RCW 47.05.030 for the state, must be consistent.

(7) An economic development element establishing local goals, policies, objectives, and provisions for economic growth and vitality and a high quality of life. A city that has chosen to be a residential community is exempt from the economic development element requirement of this subsection.

(8) A park and recreation element that implements, and is consistent with, the capital facilities plan element as it relates to park and recreation facilities. The element shall include: (a) Estimates of park and recreation demand for at least a ten-year period; (b) an evaluation of facilities and service needs; and (c) an evaluation of intergovernmental coordination opportunities to provide regional approaches for meeting park and recreational demand.

(9) It is the intent that new or amended elements required after January 1, 2002, be adopted concurrent with the scheduled update provided in RCW 36.70A.130. Requirements to incorporate any such new or amended elements shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130.

NEW SECTION. **Sec.**  A new section is added to chapter 36.70A RCW to read as follows:

(1) The department of fish and wildlife, with recommendations from the Washington state academy of sciences, shall adopt rules that establish criteria for net ecological gain and consistency with the applicable regional salmon recovery plans that counties and cities planning under RCW 36.70A.040 and that are located west of the crest of the Cascade mountains must meet through adoption of their comprehensive plans in order to support salmon recovery. In adopting rules pursuant to this section, the department of fish and wildlife must consult on an early and continuous basis with each federally recognized Indian tribe with property, tribal reservation land, or usual and accustomed fishing areas in, adjacent to, or directly affected by the planning jurisdiction and with each regional salmon recovery board. The department must also communicate with regional salmon recovery organizations and governments planning under RCW 36.70A.040 during the process of adopting rules pursuant to this section.

(2) The rules adopted under this section must address the applicable components of salmon recovery plans that local governments have authority over, such as the habitat restoration and protection elements of the recovery plans.

(3) The rules adopted under this section must ensure that, where appropriate, the interjurisdictional coordination process required by RCW 36.70A.100 addresses the issue of salmon recovery.

(4) The rules adopted under this section must not require or assume that the proponents of individual private projects will be responsible for achieving net ecological gain. Rules adopted under this section must ensure that individual private projects achieve no net loss of ecological function.

(5) The rules adopted under this section must not establish minimum riparian buffer widths. The legislature intends to allow for the governor's government-to-government process and stakeholder work regarding fully functioning riparian habitats to be the venue for the discussion of riparian protection and restoration standards.

(6) Rules adopted under this section to evaluate whether a local government's performance achieves net ecological gain of in-water and upland habitats that contribute to anadromous fish habitat on a watershed basis must consider the implication of all projects and activities. This evaluation shall consider publicly funded projects, voluntary projects, and publicly owned projects.

(7) Rules adopted under this section related to net ecological gain must account for the impact of the urban heat island effect on ecological function.

(8) The rules adopted under this section do not apply to RCW 36.70A.700 through 36.70A.904, the voluntary stewardship program.

(9) The department of fish and wildlife shall work with other state agencies, local governments, federally recognized Indian tribes, and regional salmon recovery boards to monitor and report on progress towards the goals set forth in the regional salmon recovery plans, including parameters that affect salmonid health, including properly functioning watershed conditions. As part of its monitoring, and as appropriate, the department of fish and wildlife shall obtain monitoring data from relevant and reliable sources including, but not limited to, local governments, state agencies, federal agencies, and Indian tribes. In addition, the department of fish and wildlife shall also monitor and report the progress that each jurisdiction planning under RCW 36.70A.040 has made toward achieving no net loss of ecological function and net ecological gain. As part of this ongoing monitoring effort, the department of fish and wildlife, in early and continuous consultation with each federally recognized Indian tribe with property, tribal reservation land, or usual and accustomed fishing areas in, adjacent to, or directly affected by the planning jurisdiction, and in communication with the affected local governments and salmon recovery regional boards, shall first establish the current watershed function conditions within each county and city planning under RCW 36.70A.040, identify any monitoring data gaps and make recommendations to fill those gaps, and monitor the degree to which each jurisdiction is successful at achieving net ecological gains, and no net losses through individual projects, over time, including, where appropriate, the efforts made by jurisdictions to address the effect of urban heat islands on salmonid health. The department of fish and wildlife is encouraged to work with or seek feedback from the local watershed groups in review of the current environmental baseline conditions and monitoring efforts.

(10) The department of fish and wildlife shall establish an advisory group to assist with the implementation of this policy. This advisory group shall at a minimum include: Federally recognized tribes, local governments, state agencies, regional salmon recovery interests, agricultural interests, environmental organizations, business interests, human health and well-being interests, and diversity, equity and inclusion interests.

(11) The department of fish and wildlife shall facilitate an ongoing and collaborative process for the purpose of identifying gaps and targets related to salmon habitat and funding, to be informed by its monitoring work pursuant to this section.

(12) The department of fish and wildlife shall provide a report of its monitoring under this section to the governor, the appropriate committees of the legislature, and the local governments subject to this act, no later than October 15th of every even-numbered year, beginning in 2022.

NEW SECTION. **Sec.**  A new section is added to chapter 36.70A RCW to read as follows:

Nothing in this act is intended to reduce mitigation requirements under other applicable state and federal environmental laws.

NEW SECTION. **Sec.**  The obligation of local governments to comply with the requirements established in: (a) The amendments to RCW 36.70A.020 and 36.70A.070 set forth in this act; and (b) the rules related to net ecological gain adopted pursuant to section 5 of this act, is contingent on the provision of state funding to local governments for the specific purpose of complying with these requirements. The obligation of local governments to comply with the requirements established in: (a) The amendments to RCW 36.70A.020 and 36.70A.070 set forth in this act; and (b) the rules related to net ecological gain adopted pursuant to section 5 of this act, takes effect two years after the date the legislature appropriates state funding to provide to local governments for the purpose of complying with these requirements.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void."

**E2SHB 1117** - S COMM AMD

By Committee on Housing & Local Government

On page 1, line 2 of the title, after "framework;" strike the remainder of the title and insert "amending RCW 36.70A.030, 36.70A.020, and 36.70A.070; adding new sections to chapter 36.70A RCW; and creating new sections."

EFFECT: Removes the definition of mitigation hierarchy requirement from the Growth Management Act (GMA). Adds a new term for properly functioning watershed conditions under the GMA as watershed conditions that are necessary for salmon to survive including forest cover, floodplains, instream habitats, fish passage, riparian habitats, water quality and quantity, and impervious surface levels. Restricts the requirement that by January 1, 2024, the land use element of a comprehensive plan must include a strategy for the recovery of salmon to counties west of the crest of the Cascade mountains. Clarifies that projects owned by public entities net ecological gain contribution must be additive to salmon recovery or salmon restoration projects. Restricts the requirement for the Department of Fish and Wildlife to adopt rules that establish criteria for net ecological gain which certain counties and cities must meet through adoption of comprehensive plans to counties west of the crest of the Cascade mountains. Specifies that rules adopted for net ecological gain by the WDFW must not establish minimum riparian buffer widths and that the Governor's government-to-government process will be the venue for the discussion of riparian protection and restoration standards. Adds that rules adopted by WDFW for net ecological gain to evaluate whether a local government's performance achieves net ecological gain must consider the implication of all projects and activities and adds that the evaluation shall consider publicly funded projects, voluntary projects, and publicly owned projects. Specifies that rules adopted for net ecological gain do not apply to the Voluntary Stewardship Program. Adds that the WDFW must establish an advisory group to assist with implementation of the net ecological gain policy. Removes the requirement for development regulations that protect critical areas to apply mitigation hierarchy requirements and compensatory mitigation requirements. Removes the requirement for mitigation imposed under the Aquatic Resources Mitigation Act and the Shoreline Management Act must apply mitigation hierarchy requirements and compensatory mitigation requirements.