

# Proposed Substitute House Bill 1117

By Representative Fitzgibbon

**Original Bill:** Promoting salmon recovery through revisions to the state's comprehensive planning framework.

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## Proposed Substitute (H-0709.1) compared to the House Bill 1117 (H-0169.2):

- Modifies the definitions of "mitigation hierarchy requirement," "net ecological gain," and "watershed."
- Modifies the requirement for the transportation element and capital facilities element of comprehensive plans to address fish passage barriers, to provide that these elements include a schedule for the elimination of all identified fish passage barriers, consistent with the prioritization schedule identified by the Fish Passage Barrier Removal Board.
- Requires the Department of Fish and Wildlife, in the course of establishing baseline environmental conditions within each planning jurisdiction, to engage in early and continuous consultation with the affected local governments and 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.
- Modifies the implementation of the mitigation hierarchy requirement to provide that before utilizing a lower level in the mitigation hierarchy, project proponents must demonstrate that it is not possible to mitigate environmental impacts through actions taken consistent with higher levels of the mitigation hierarchy.
- Provides that nothing in the bill is intended to reduce mitigation requirements under other applicable state and federal environmental laws.
- Modifies the null and void clause to provide that requirements to incorporate any changes to local government comprehensive plans or development regulations under the bill become effective when funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local governments must update comprehensive plans as required in the Growth Management Act.

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*Committee:* House Environment & Energy Committee  
*Staff:* Robert Hatfield (786-7117), Office of Program Research  
*Date:* February 2, 2021  
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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: H-0709.1/21

ATTY/TYPIST: RB:roy

BRIEF DESCRIPTION: Promoting salmon recovery through revisions to the state's comprehensive planning framework.

1 AN ACT Relating to promoting salmon recovery through revisions to  
2 the state's comprehensive planning framework; amending RCW  
3 36.70A.030, 36.70A.020, 36.70A.060, and 90.74.020; reenacting and  
4 amending RCW 36.70A.070; adding new sections to chapter 36.70A RCW;  
5 adding a new section to chapter 90.58 RCW; and creating new sections.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

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

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

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

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

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

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

15 **Sec. 2.** RCW 36.70A.030 and 2020 c 173 s 4 are each amended to  
16 read as follows:

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

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

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

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

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

34 (3) "Agricultural land" means land primarily devoted to the  
35 commercial production of horticultural, viticultural, floricultural,  
36 dairy, apiary, vegetable, or animal products or of berries, grain,  
37 hay, straw, turf, seed, Christmas trees not subject to the excise tax  
38 imposed by RCW 84.33.100 through 84.33.140, finfish in upland

1 hatcheries, or livestock, and that has long-term commercial  
2 significance for agricultural production.

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

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

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

14 ((+6)) (7) "Critical areas" include the following areas and  
15 ecosystems: (a) Wetlands; (b) areas with a critical recharging effect  
16 on aquifers used for potable water; (c) fish and wildlife habitat  
17 conservation areas; (d) frequently flooded areas; and (e)  
18 geologically hazardous areas. "Fish and wildlife habitat conservation  
19 areas" does not include such artificial features or constructs as  
20 irrigation delivery systems, irrigation infrastructure, irrigation  
21 canals, or drainage ditches that lie within the boundaries of and are  
22 maintained by a port district or an irrigation district or company.

23 ((+7)) (8) "Department" means the department of commerce.

24 ((+8)) (9) "Development regulations" or "regulation" means the  
25 controls placed on development or land use activities by a county or  
26 city, including, but not limited to, zoning ordinances, critical  
27 areas ordinances, shoreline master programs, official controls,  
28 planned unit development ordinances, subdivision ordinances, and  
29 binding site plan ordinances together with any amendments thereto. A  
30 development regulation does not include a decision to approve a  
31 project permit application, as defined in RCW 36.70B.020, even though  
32 the decision may be expressed in a resolution or ordinance of the  
33 legislative body of the county or city.

34 ((+9)) (10) "Extremely low-income household" means a single  
35 person, family, or unrelated persons living together whose adjusted  
36 income is at or below thirty percent of the median household income  
37 adjusted for household size, for the county where the household is  
38 located, as reported by the United States department of housing and  
39 urban development.

1       (~~(10)~~) (11) "Forestland" means land primarily devoted to  
2 growing trees for long-term commercial timber production on land that  
3 can be economically and practically managed for such production,  
4 including Christmas trees subject to the excise tax imposed under RCW  
5 84.33.100 through 84.33.140, and that has long-term commercial  
6 significance. In determining whether forestland is primarily devoted  
7 to growing trees for long-term commercial timber production on land  
8 that can be economically and practically managed for such production,  
9 the following factors shall be considered: (a) The proximity of the  
10 land to urban, suburban, and rural settlements; (b) surrounding  
11 parcel size and the compatibility and intensity of adjacent and  
12 nearby land uses; (c) long-term local economic conditions that affect  
13 the ability to manage for timber production; and (d) the availability  
14 of public facilities and services conducive to conversion of  
15 forestland to other uses.

16       (~~(11)~~) (12) "Freight rail dependent uses" means buildings and  
17 other infrastructure that are used in the fabrication, processing,  
18 storage, and transport of goods where the use is dependent on and  
19 makes use of an adjacent short line railroad. Such facilities are  
20 both urban and rural development for purposes of this chapter.  
21 "Freight rail dependent uses" does not include buildings and other  
22 infrastructure that are used in the fabrication, processing, storage,  
23 and transport of coal, liquefied natural gas, or "crude oil" as  
24 defined in RCW 90.56.010.

25       (~~(12)~~) (13) "Geologically hazardous areas" means areas that  
26 because of their susceptibility to erosion, sliding, earthquake, or  
27 other geological events, are not suited to the siting of commercial,  
28 residential, or industrial development consistent with public health  
29 or safety concerns.

30       (~~(13)~~) (14) "Long-term commercial significance" includes the  
31 growing capacity, productivity, and soil composition of the land for  
32 long-term commercial production, in consideration with the land's  
33 proximity to population areas, and the possibility of more intense  
34 uses of the land.

35       (~~(14)~~) (15) "Low-income household" means a single person,  
36 family, or unrelated persons living together whose adjusted income is  
37 at or below eighty percent of the median household income adjusted  
38 for household size, for the county where the household is located, as  
39 reported by the United States department of housing and urban  
40 development.

1       (~~(15)~~)   (16) "Minerals" include gravel, sand, and valuable  
2 metallic substances.

3       (~~(16)~~)   (17) "Mitigation hierarchy requirement" means that a  
4 proponent must first avoid impacts where feasible, must then minimize  
5 impacts where avoidance is not feasible, and must then mitigate any  
6 remaining impacts where avoidance and minimization are not feasible.

7       (18) "Net ecological gain" means a standard for a comprehensive  
8 plan adopted under this chapter in which the ecological integrity  
9 within each WRIA or independent natural drainage that flows directly  
10 into marine waters of the planning area is improved and enhanced  
11 during the planning period as a result of the measures adopted by the  
12 planning body, including no net loss of ecological function with  
13 respect to the permitting of individual projects in order to advance  
14 salmon recovery and other environmental benefits. The advancement of  
15 ecological function and achievement of net ecological gain within  
16 each WRIA or independent natural drainage that flows directly into  
17 marine waters will occur through the appropriate selection and  
18 implementation of publicly funded projects, including voluntary grant  
19 programs, salmon recovery projects, ecological improvements made  
20 through the municipal stormwater permit process, and investments made  
21 as a result of the capital facilities element and transportation  
22 element of the comprehensive plan.

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

39       (~~(17)~~)   (20) "Public facilities" include streets, roads,  
40 highways, sidewalks, street and road lighting systems, traffic

1 signals, domestic water systems, storm and sanitary sewer systems,  
2 parks and recreational facilities, and schools.

3 ~~((18))~~ (21) "Public services" include fire protection and  
4 suppression, law enforcement, public health, education, recreation,  
5 environmental protection, and other governmental services.

6 ~~((19) "Recreational land" means land so designated under RCW  
7 36.70A.1701 and that, immediately prior to this designation, was  
8 designated as agricultural land of long-term commercial significance  
9 under RCW 36.70A.170. Recreational land must have playing fields and  
10 supporting facilities existing before July 1, 2004, for sports played  
11 on grass playing fields.~~

12 ~~(20))~~ (22) "Rural character" refers to the patterns of land use  
13 and development established by a county in the rural element of its  
14 comprehensive plan:

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

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

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

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

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

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

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

31 ~~((21))~~ (23) "Rural development" refers to development outside  
32 the urban growth area and outside agricultural, forest, and mineral  
33 resource lands designated pursuant to RCW 36.70A.170. Rural  
34 development can consist of a variety of uses and residential  
35 densities, including clustered residential development, at levels  
36 that are consistent with the preservation of rural character and the  
37 requirements of the rural element. Rural development does not refer  
38 to agriculture or forestry activities that may be conducted in rural  
39 areas.



1       (~~(22)~~) (24) "Rural governmental services" or "rural services"  
2 include those public services and public facilities historically and  
3 typically delivered at an intensity usually found in rural areas, and  
4 may include domestic water systems, fire and police protection  
5 services, transportation and public transit services, and other  
6 public utilities associated with rural development and normally not  
7 associated with urban areas. Rural services do not include storm or  
8 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

9       (~~(23)~~) (25) "Short line railroad" means those railroad lines  
10 designated class II or class III by the United States surface  
11 transportation board.

12       (~~(24)~~) (26) "Urban governmental services" or "urban services"  
13 include those public services and public facilities at an intensity  
14 historically and typically provided in cities, specifically including  
15 storm and sanitary sewer systems, domestic water systems, street  
16 cleaning services, fire and police protection services, public  
17 transit services, and other public utilities associated with urban  
18 areas and normally not associated with rural areas.

19       (~~(25)~~) (27) "Urban growth" refers to growth that makes  
20 intensive use of land for the location of buildings, structures, and  
21 impermeable surfaces to such a degree as to be incompatible with the  
22 primary use of land for the production of food, other agricultural  
23 products, or fiber, or the extraction of mineral resources, rural  
24 uses, rural development, and natural resource lands designated  
25 pursuant to RCW 36.70A.170. A pattern of more intensive rural  
26 development, as provided in RCW 36.70A.070(5)(d), is not urban  
27 growth. When allowed to spread over wide areas, urban growth  
28 typically requires urban governmental services. "Characterized by  
29 urban growth" refers to land having urban growth located on it, or to  
30 land located in relationship to an area with urban growth on it as to  
31 be appropriate for urban growth.

32       (~~(26)~~) (28) "Urban growth areas" means those areas designated  
33 by a county pursuant to RCW 36.70A.110.

34       (~~(27)~~) (29) "Very low-income household" means a single person,  
35 family, or unrelated persons living together whose adjusted income is  
36 at or below fifty percent of the median household income adjusted for  
37 household size, for the county where the household is located, as  
38 reported by the United States department of housing and urban  
39 development.

1       (~~(28)~~) (30) "Watershed" means a water resource inventory area  
2 or "WRIA" established consistent with chapter 90.82 RCW or an  
3 independent natural drainage that flows directly into marine waters.

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

19       **Sec. 3.** RCW 36.70A.020 and 2002 c 154 s 1 are each amended to  
20 read as follows:

21       The following goals are adopted to guide the development and  
22 adoption of comprehensive plans and development regulations of those  
23 counties and cities that are required or choose to plan under RCW  
24 36.70A.040. The following goals are not listed in order of priority  
25 and shall be used exclusively for the purpose of guiding the  
26 development of comprehensive plans and development regulations:

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

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

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

35       (4) Housing. Encourage the availability of affordable housing to  
36 all economic segments of the population of this state, promote a  
37 variety of residential densities and housing types, and encourage  
38 preservation of existing housing stock.

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

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

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

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

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

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

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

37 (12) Public facilities and services. Ensure that those public  
38 facilities and services necessary to support development shall be  
39 adequate to serve the development at the time the development is

1 available for occupancy and use without decreasing current service  
2 levels below locally established minimum standards.

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

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

14 **Sec. 4.** RCW 36.70A.070 and 2017 3rd sp.s. c 18 s 4 and 2017 3rd  
15 sp.s. c 16 s 4 are each reenacted and amended to read as follows:

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

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

1 (b) Beginning with plan updates adopted after January 1, 2024,  
2 the land use element must, in accordance with rules adopted pursuant  
3 to this act, include a strategy that, through a combination of  
4 regulatory and nonregulatory programs, achieves net ecological gain  
5 of in-water and upland habitats, vegetation, water quantity, water  
6 quality, and natural features that contribute to anadromous fish  
7 habitat on a watershed basis, including applicable elements of salmon  
8 recovery plans adopted pursuant to the federal endangered species  
9 act. This strategy must be developed after providing notice and an  
10 opportunity to consult to each federally recognized Indian tribe with  
11 property, tribal reservation land, or usual and accustomed fishing  
12 areas in, adjacent to, or directly affected by the planning  
13 jurisdiction. The achievement of net ecological gain may rely on  
14 activities or mitigation carried out by a jurisdiction but that are  
15 physically located outside the jurisdiction if still within the same  
16 watershed. Development regulations adopted pursuant to this section  
17 may not require individual private projects to achieve net ecological  
18 gain. Development regulations adopted pursuant to this section must  
19 require that projects owned by public entities including, but not  
20 limited to, state agencies, counties, cities, towns, public utilities  
21 districts, schools, libraries, and transportation agencies, achieve  
22 net ecological gain.

23 (2) A housing element ensuring the vitality and character of  
24 established residential neighborhoods that: (a) Includes an inventory  
25 and analysis of existing and projected housing needs that identifies  
26 the number of housing units necessary to manage projected growth; (b)  
27 includes a statement of goals, policies, objectives, and mandatory  
28 provisions for the preservation, improvement, and development of  
29 housing, including single-family residences; (c) identifies  
30 sufficient land for housing, including, but not limited to,  
31 government-assisted housing, housing for low-income families,  
32 manufactured housing, multifamily housing, and group homes and foster  
33 care facilities; and (d) makes adequate provisions for existing and  
34 projected needs of all economic segments of the community. In  
35 counties and cities subject to the review and evaluation requirements  
36 of RCW 36.70A.215, any revision to the housing element shall include  
37 consideration of prior review and evaluation reports and any  
38 reasonable measures identified.

39 (3) A capital facilities plan element consisting of: (a) An  
40 inventory of existing capital facilities owned by public entities,

1 showing the locations and capacities of the capital facilities; (b) a  
2 forecast of the future needs for such capital facilities that  
3 includes a schedule for the elimination of all identified fish  
4 passage barriers, consistent with the prioritization schedule  
5 identified by the fish passage barrier removal board established  
6 pursuant to RCW 77.95.160, but not otherwise included in the  
7 transportation and open space elements; (c) the proposed locations  
8 and capacities of expanded or new capital facilities; (d) at least a  
9 six-year plan that will finance such capital facilities within  
10 projected funding capacities and clearly identifies sources of public  
11 money for such purposes; and (e) a requirement to reassess the land  
12 use element if probable funding falls short of meeting existing needs  
13 and to ensure that the land use element, capital facilities plan  
14 element, and financing plan within the capital facilities plan  
15 element are coordinated and consistent. Park and recreation  
16 facilities shall be included in the capital facilities plan element.

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

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

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

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

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

4 (i) Containing or otherwise controlling rural development;

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

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

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

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

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

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

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

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

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

37 (ii) The intensification of development on lots containing, or  
38 new development of, small-scale recreational or tourist uses,  
39 including commercial facilities to serve those recreational or  
40 tourist uses, that rely on a rural location and setting, but that do

1 not include new residential development. A small-scale recreation or  
2 tourist use is not required to be principally designed to serve the  
3 existing and projected rural population. Public services and public  
4 facilities shall be limited to those necessary to serve the  
5 recreation or tourist use and shall be provided in a manner that does  
6 not permit low-density sprawl;

7 (iii) The intensification of development on lots containing  
8 isolated nonresidential uses or new development of isolated cottage  
9 industries and isolated small-scale businesses that are not  
10 principally designed to serve the existing and projected rural  
11 population and nonresidential uses, but do provide job opportunities  
12 for rural residents. Rural counties may allow the expansion of small-  
13 scale businesses as long as those small-scale businesses conform with  
14 the rural character of the area as defined by the local government  
15 according to RCW 36.70A.030(~~((+16+))~~) (22). Rural counties may also  
16 allow new small-scale businesses to utilize a site previously  
17 occupied by an existing business as long as the new small-scale  
18 business conforms to the rural character of the area as defined by  
19 the local government according to RCW 36.70A.030(~~((+16+))~~) (22). Public  
20 services and public facilities shall be limited to those necessary to  
21 serve the isolated nonresidential use and shall be provided in a  
22 manner that does not permit low-density sprawl;

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



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

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

5 (B) On the date the county adopted a resolution under RCW  
6 36.70A.040(2), in a county that is planning under all of the  
7 provisions of this chapter under RCW 36.70A.040(2); or

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

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

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

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

20 (i) Land use assumptions used in estimating travel;

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

27 (iii) Facilities and services needs, including:

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

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

37 (C) For state-owned transportation facilities, level of service  
38 standards for highways, as prescribed in chapters 47.06 and 47.80  
39 RCW, to gauge the performance of the system. The purposes of  
40 reflecting level of service standards for state highways in the local

1 comprehensive plan are to monitor the performance of the system, to  
2 evaluate improvement strategies, and to facilitate coordination  
3 between the county's or city's six-year street, road, or transit  
4 program and the office of financial management's ten-year investment  
5 program. The concurrency requirements of (b) of this subsection do  
6 not apply to transportation facilities and services of statewide  
7 significance except for counties consisting of islands whose only  
8 connection to the mainland are state highways or ferry routes. In  
9 these island counties, state highways and ferry route capacity must  
10 be a factor in meeting the concurrency requirements in (b) of this  
11 subsection;

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

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

18 (F) Identification of state and local system needs to meet  
19 current and future demands. System needs must include a schedule for  
20 the elimination of all identified fish passage barriers, consistent  
21 with the prioritization schedule identified by the fish passage  
22 barrier removal board established pursuant to RCW 77.95.160,  
23 identified on the local transportation system. Identified needs on  
24 state-owned transportation facilities must be consistent with the  
25 statewide multimodal transportation plan required under chapter 47.06  
26 RCW;

27 (iv) Finance, including:

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

30 (B) A multiyear financing plan based on the needs identified in  
31 the comprehensive plan, the appropriate parts of which shall serve as  
32 the basis for the six-year street, road, or transit program required  
33 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
34 35.58.2795 for public transportation systems. The multiyear financing  
35 plan should be coordinated with the ten-year investment program  
36 developed by the office of financial management as required by RCW  
37 47.05.030;

38 (C) If probable funding falls short of meeting identified needs,  
39 a discussion of how additional funding will be raised, or how land

1 use assumptions will be reassessed to ensure that level of service  
2 standards will be met;

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

6 (vi) Demand-management strategies;

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

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

29 (c) The transportation element described in this subsection (6),  
30 the six-year plans required by RCW 35.77.010 for cities, RCW  
31 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
32 systems, and the ten-year investment program required by RCW  
33 47.05.030 for the state, must be consistent.

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

39 (8) A park and recreation element that implements, and is  
40 consistent with, the capital facilities plan element as it relates to

1 park and recreation facilities. The element shall include: (a)  
2 Estimates of park and recreation demand for at least a ten-year  
3 period; (b) an evaluation of facilities and service needs; and (c) an  
4 evaluation of intergovernmental coordination opportunities to provide  
5 regional approaches for meeting park and recreational demand.

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

13 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A  
14 RCW to read as follows:

15 (1) Through early and continuous consultation with each federally  
16 recognized Indian tribe with property, tribal reservation land, or  
17 usual and accustomed fishing areas in, adjacent to, or directly  
18 affected by the planning jurisdiction, and governments planning under  
19 RCW 36.70A.040, the department of fish and wildlife, with  
20 recommendations from the Washington state academy of sciences, shall  
21 adopt rules that establish criteria for net ecological gain and  
22 consistency with the applicable regional salmon recovery plans that  
23 counties and cities planning under RCW 36.70A.040 must meet through  
24 adoption of their comprehensive plans in order to support salmon  
25 recovery.

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

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

33 (4) The rules adopted under this section must not require or  
34 assume that the proponents of individual private projects will be  
35 responsible for achieving net ecological gain. Rules adopted under  
36 this section must ensure that individual private projects achieve no  
37 net loss of ecological function, and that net ecological gain is  
38 achieved through the appropriate selection of publicly funded

1 projects, and voluntary projects whose purpose is salmon recovery but  
2 which may receive funding from either public or private sources.

3 (5) The department of fish and wildlife shall monitor progress  
4 towards the goals set forth in the regional salmon recovery plans. In  
5 addition, the department of fish and wildlife shall also monitor and  
6 report the progress that each jurisdiction planning under RCW  
7 36.70A.040 has made toward achieving no net loss of ecological  
8 function and net ecological gain. As part of this ongoing monitoring  
9 effort, the department of fish and wildlife, in early and continuous  
10 consultation with the affected local governments and each federally  
11 recognized Indian tribe with property, tribal reservation land, or  
12 usual and accustomed fishing areas in, adjacent to, or directly  
13 affected by the planning jurisdiction, shall first establish the  
14 current environmental baseline conditions within each county and city  
15 planning under RCW 36.70A.040, develop targets, identify any  
16 monitoring data gaps and make recommendations to fill those gaps, and  
17 monitor the degree to which each jurisdiction is successful at  
18 achieving net ecological gains, and no net losses through individual  
19 projects, over time. The department of fish and wildlife is  
20 encouraged to work with or seek feedback from the local watershed  
21 groups in review of the current environmental baseline conditions,  
22 targets, and monitoring efforts.

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

28 **Sec. 6.** RCW 36.70A.060 and 2017 3rd sp.s. c 18 s 3 are each  
29 amended to read as follows:

30 (1)(a) Each county that is required or chooses to plan under RCW  
31 36.70A.040, and each city within such county, shall adopt development  
32 regulations on or before September 1, 1991, to assure the  
33 conservation of agricultural, forest, and mineral resource lands  
34 designated under RCW 36.70A.170. Regulations adopted under this  
35 subsection may not prohibit uses legally existing on any parcel prior  
36 to their adoption and shall remain in effect until the county or city  
37 adopts development regulations pursuant to RCW 36.70A.040. Such  
38 regulations shall assure that the use of lands adjacent to  
39 agricultural, forest, or mineral resource lands shall not interfere

1 with the continued use, in the accustomed manner and in accordance  
2 with best management practices, of these designated lands for the  
3 production of food, agricultural products, or timber, or for the  
4 extraction of minerals. Any county located to the west of the crest  
5 of the Cascade mountains that has both a population of at least four  
6 hundred thousand and a border that touches another state, and any  
7 city in such county, may adopt development regulations to assure that  
8 agriculture, forest, and mineral resource lands adjacent to short  
9 line railroads may be developed for freight rail dependent uses.

10 (b) Counties and cities shall require that all plats, short  
11 plats, development permits, and building permits issued for  
12 development activities on, or within five hundred feet of, lands  
13 designated as agricultural lands, forestlands, or mineral resource  
14 lands, contain a notice that the subject property is within or near  
15 designated agricultural lands, forestlands, or mineral resource lands  
16 on which a variety of commercial activities may occur that are not  
17 compatible with residential development for certain periods of  
18 limited duration. The notice for mineral resource lands shall also  
19 inform that an application might be made for mining-related  
20 activities, including mining, extraction, washing, crushing,  
21 stockpiling, blasting, transporting, and recycling of minerals.

22 (c) Each county that adopts a resolution of partial planning  
23 under RCW 36.70A.040(2)(b), and each city within such county, shall  
24 adopt development regulations within one year after the adoption of  
25 the resolution of partial planning to assure the conservation of  
26 agricultural, forest, and mineral resource lands designated under RCW  
27 36.70A.170. Regulations adopted under this subsection (1)(c) must  
28 comply with the requirements governing regulations adopted under (a)  
29 of this subsection.

30 (d)(i) A county that adopts a resolution of partial planning  
31 under RCW 36.70A.040(2)(b) and that is not in compliance with the  
32 planning requirements of this section, RCW 36.70A.040(4),  
33 36.70A.070(5), 36.70A.170, and 36.70A.172 at the time the resolution  
34 is adopted must, by January 30, 2017, apply for a determination of  
35 compliance from the department finding that the county's development  
36 regulations, including development regulations adopted to protect  
37 critical areas, and comprehensive plans are in compliance with the  
38 requirements of this section, RCW 36.70A.040(4), 36.70A.070(5),  
39 36.70A.170, and 36.70A.172. The department must approve or deny the  
40 application for a determination of compliance within one hundred

1 twenty days of its receipt or by June 30, 2017, whichever date is  
2 earlier.

3 (ii) If the department denies an application under (d)(i) of this  
4 subsection, the county and each city within is obligated to comply  
5 with all requirements of this chapter and the resolution for partial  
6 planning adopted under RCW 36.70A.040(2)(b) is no longer in effect.

7 (iii) A petition for review of a determination of compliance  
8 under (d)(i) of this subsection may only be appealed to the growth  
9 management hearings board within sixty days of the issuance of the  
10 decision by the department.

11 (iv) In the event of a filing of a petition in accordance with  
12 (d)(iii) of this subsection, the county and the department must  
13 equally share the costs incurred by the department for defending an  
14 approval of determination of compliance that is before the growth  
15 management hearings board.

16 (v) The department may implement this subsection (1)(d) by  
17 adopting rules related to determinations of compliance. The rules may  
18 address, but are not limited to: The requirements for applications  
19 for a determination of compliance; charging of costs under (d)(iv) of  
20 this subsection; procedures for processing applications; criteria for  
21 the evaluation of applications; issuance and notice of department  
22 decisions; and applicable timelines.

23 (e) Any county that borders both the Cascade mountains and  
24 another county and has a population of less than fifty thousand  
25 people, and any city in such county, may adopt development  
26 regulations to assure that agriculture, forest, and mineral resource  
27 lands adjacent to short line railroads may be developed for freight  
28 rail dependent uses.

29 (2) Each county and city shall adopt development regulations that  
30 protect critical areas that are required to be designated under RCW  
31 36.70A.170. For counties and cities that are required or choose to  
32 plan under RCW 36.70A.040, such development regulations shall be  
33 adopted on or before September 1, 1991. For the remainder of the  
34 counties and cities, such development regulations shall be adopted on  
35 or before March 1, 1992. Regulations that protect critical areas must  
36 apply the mitigation hierarchy requirement as defined in RCW  
37 36.70A.030. Before utilizing a lower level in the mitigation  
38 hierarchy, project proponents must demonstrate that it is not  
39 possible to mitigate environmental impacts through actions taken  
40 consistent with higher levels of the mitigation hierarchy. When using

1 compensatory mitigation, regulations must ensure that measures to  
2 mitigate by compensating for the impact by replacing, enhancing, or  
3 providing substitute resources or environments result in no net loss  
4 of ecological function under a range of compensatory mitigation  
5 implementation scenarios, including compensatory mitigation  
6 implementation scenarios in which:

7 (a) The ecological functions and values provided by impacted  
8 elements of the environment are superior to the ecological functions  
9 and values provided by the mitigation measures; and

10 (b) Mitigation measures do not function as successfully as  
11 designed, intended, or expected.

12 (3) Such counties and cities shall review these designations and  
13 development regulations when adopting their comprehensive plans under  
14 RCW 36.70A.040 and implementing development regulations under RCW  
15 36.70A.120 and may alter such designations and development  
16 regulations to insure consistency.

17 (4) Forestland and agricultural land located within urban growth  
18 areas shall not be designated by a county or city as forestland or  
19 agricultural land of long-term commercial significance under RCW  
20 36.70A.170 unless the city or county has enacted a program  
21 authorizing transfer or purchase of development rights.

22 **Sec. 7.** RCW 90.74.020 and 2012 c 62 s 4 are each amended to read  
23 as follows:

24 (1) Project proponents may use a mitigation plan to propose  
25 compensatory mitigation within a watershed. A mitigation plan shall:

26 (a) Contain provisions that guarantee the long-term viability of  
27 the created, restored, enhanced, or preserved habitat, including  
28 assurances for protecting any essential biological functions and  
29 values defined in the mitigation plan;

30 (b) Contain provisions for long-term monitoring of any created,  
31 restored, or enhanced mitigation site; (~~and~~)

32 (c) Be consistent with the local comprehensive land use plan and  
33 any other applicable planning process in effect for the development  
34 area, such as an adopted subbasin or watershed plan; and

35 (d) Apply the mitigation hierarchy requirement as defined in RCW  
36 36.70A.030. Before utilizing a lower level in the mitigation  
37 hierarchy, project proponents must demonstrate that it is not  
38 possible to mitigate environmental impacts through actions taken  
39 consistent with higher levels of the mitigation hierarchy. When using



1 compensatory mitigation, a mitigation plan must ensure that measures  
2 to mitigate by compensating for the impact by replacing, enhancing,  
3 or providing substitute resources or environments result in no net  
4 loss of ecological function under a range of compensatory mitigation  
5 implementation scenarios, including compensatory mitigation  
6 implementation scenarios in which:

7 (i) The ecological functions and values provided by impacted  
8 elements of the environment are superior to the ecological functions  
9 and values provided by the mitigation measures; and

10 (ii) Mitigation measures do not function as successfully as  
11 designed, intended, or expected.

12 (2) (a) The departments of ecology and fish and wildlife may not  
13 limit the scope of options in a mitigation plan to areas on or near  
14 the project site, or to habitat types of the same type as contained  
15 on the project site. The departments of ecology and fish and wildlife  
16 shall fully review and give due consideration to compensatory  
17 mitigation proposals that improve the overall biological functions  
18 and values of the watershed or bay and accommodate the mitigation  
19 needs of the infrastructure development or noninfrastructure  
20 development, including proposals or portions of proposals that are  
21 explored or developed in RCW 90.74.040.

22 (b) The departments of ecology and fish and wildlife are not  
23 required to grant approval to a mitigation plan that the departments  
24 find does not provide equal or better biological functions and values  
25 within the watershed or bay.

26 (3) When making a permit or other regulatory decision under the  
27 guidance of this chapter, the departments of ecology and fish and  
28 wildlife shall consider whether the mitigation plan provides equal or  
29 better biological functions and values, compared to the existing  
30 conditions, for the target resources or species identified in the  
31 mitigation plan. This consideration shall be based upon the following  
32 factors:

33 (a) The relative value of the mitigation for the target  
34 resources, in terms of the quality and quantity of biological  
35 functions and values provided;

36 (b) The compatibility of the proposal with the intent of broader  
37 resource management and habitat management objectives and plans, such  
38 as existing resource management plans, watershed plans, critical  
39 areas ordinances, the forestry riparian easement program, the

1 riparian open space program, the family forest fish passage program,  
2 and shoreline master programs;

3 (c) The ability of the mitigation to address scarce functions or  
4 values within a watershed;

5 (d) The benefits of the proposal to broader watershed landscape,  
6 including the benefits of connecting various habitat units or  
7 providing population-limiting habitats or functions for target  
8 species;

9 (e) The benefits of early implementation of habitat mitigation  
10 for projects that provide compensatory mitigation in advance of the  
11 project's planned impacts; and

12 (f) The significance of any negative impacts to nontarget species  
13 or resources.

14 (4) A mitigation plan may be approved through a memorandum of  
15 agreement between the project proponent and either the department of  
16 ecology or the department of fish and wildlife, or both.

17 NEW SECTION. **Sec. 8.** A new section is added to chapter 90.58  
18 RCW to read as follows:

19 Mitigation imposed under this chapter and consistent with chapter  
20 43.21C RCW must apply the mitigation hierarchy requirement as defined  
21 in RCW 36.70A.030. Before utilizing a lower level in the mitigation  
22 hierarchy, project proponents must demonstrate that it is not  
23 possible to mitigate environmental impacts through actions taken  
24 consistent with higher levels of the mitigation hierarchy. When using  
25 compensatory mitigation, regulations must ensure that measures to  
26 mitigate by compensating for the impact by replacing, enhancing, or  
27 providing substitute resources or environments result in no net loss  
28 of ecological function under a range of compensatory mitigation  
29 implementation scenarios, including compensatory mitigation  
30 implementation scenarios in which:

31 (1) The ecological functions and values provided by impacted  
32 elements of the environment are superior to the ecological functions  
33 and values provided by the mitigation measures; and

34 (2) Mitigation measures do not function as successfully as  
35 designed, intended, or expected.

36 NEW SECTION. **Sec. 9.** A new section is added to chapter 36.70A  
37 RCW to read as follows:

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

3        NEW SECTION.    **Sec. 10.**    Requirements to incorporate any changes  
4 to local government comprehensive plans or development regulations  
5 under this act become effective when funds sufficient to cover  
6 applicable local government costs are appropriated and distributed by  
7 the state at least two years before a local government must update  
8 comprehensive plans as required in RCW 36.70A.130.

--- END ---