

# HOUSE BILL REPORT

## SHB 2489

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### As Passed Legislature

**Title:** An act relating to off-road and nonhighway vehicles.

**Brief Description:** Concerning nonhighway and off-road vehicles.

**Sponsors:** By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Cooper, Condotta, Anderson, Nixon, Upthegrove, Priest, Dunshee, Moeller and Armstrong).

### Brief History:

#### Committee Activity:

Fisheries, Ecology & Parks: 1/20/04 [DPS].

#### Floor Activity:

Passed House: 2/13/04, 84-12.

Senate Amended.

Passed Senate: 3/5/04, 46-0.

House Concurred.

Passed House: 3/9/04, 77-16.

Passed Legislature.

### Brief Summary of Substitute Bill

- Revises Nonhighway and Off-road Vehicle Activities Program (NOVA) account allocations for the Interagency Committee for Outdoor Recreation (IAC) and the Department of Natural Resources.
- Establishes nonhighway road recreation facilities as a new IAC grant category along with nonmotorized and off-road vehicles facilities and requires that an equal amount of funds be expended on each category.

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### HOUSE COMMITTEE ON FISHERIES, ECOLOGY & PARKS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Cooper, Chair; Upthegrove, Vice Chair; Sump, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Hatfield, O'Brien, Pearson and Simpson, D..

**Staff:** Jeff Olsen (786-7157).

### Background:

Fuel tax paid on gasoline consumed for recreational purposes on nonhighway roads is used to support nonhighway and off-road vehicle (ORV) recreational facilities. The treasurer deposits 1 percent of the eligible fuel tax revenue into the Nonhighway and Off-road Vehicle Activities (NOVA) account. Funds from the NOVA account are distributed by statutory formula including:

- 40 percent is deposited in the ORV account for the Department of Natural Resources (DNR) to maintain and manage ORV and nonhighway road recreational facilities. 10 percent of these funds are transferred to the Interagency Committee for Outdoor Recreation (IAC) for education and enforcement;
- 3.5 percent is deposited in the ORV account and administered by the Department of Fish and Wildlife for acquisition, planning, development, maintenance and management of nonhighway roads and recreation facilities;
- 2 percent is deposited in the ORV account and administered by the State Parks and Recreation Commission for the maintenance and management of ORV facilities; and
- 54.5 percent is deposited in the NOVA account and administered by the IAC for the planning, maintenance and management of ORV and nonhighway road recreational facilities, as well as ORV education and law enforcement programs.

The NOVA Advisory Committee is appointed by the IAC and provides advice regarding the administration of the NOVA program, including the evaluation of NOVA projects submitted for funding. Funds distributed to the IAC for the NOVA grant program are subject to the following spending restrictions:

- up to 20 percent for ORV education, information, and law enforcement;
- up to 60 percent for ORV recreation facilities; and
- up to 20 percent for nonhighway road recreation facilities.

Applicants for land acquisition projects must conduct public hearings and publish notices before submitting their project to the IAC.

A fuel use study was completed in 2003 to determine the relative portion of motor fuel tax revenues attributable to off-road vehicle and nonhighway road recreational activities. Legislation passed in the 2003 session directed an advisory committee of stakeholders to review the existing allocation formulas and develop recommendations consistent with the fuel use study.

ORV use permits are required to operate an ORV within the state. However, there are several exceptions to ORV use permit requirements including ORVs owned by government agencies or ORVs used for exempt purposes.

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### **Summary of Substitute Bill:**

The allocation of NOVA funds to the DNR is decreased from 40 percent to 36 percent, and the transfer of funds from the DNR to the IAC for enforcement and education is eliminated. Categorical restrictions on the use of DNR's NOVA funds are eliminated.

The IAC distribution is increased from 54.5 percent to 58.5 percent. The restriction on education and enforcement funding is increased from 20 percent to 30 percent. Of the remaining funds, not less than 30 percent may be spent in each of three categories including ORV recreation facilities, nonmotorized recreation facilities, and nonhighway road recreation facilities. The minimum percentage may be waived if there are insufficient requests for funds or low scoring projects.

NOVA funds expended on nonmotorized recreation facilities are named after Ira Spring. Expenditures from ORV use permit monies will be based on recommendations from the NOVA Advisory Committee's ORV and mountain biking recreationists, governmental representatives, and land managers.

ORV dealers may not sell an ORV at retail without an ORV use permit unless it is for an exempt use. Certain ORV use permit exemptions are eliminated including ORVs operating in an organized competitive event, ORVs operated on any lands owned or leased by the operator except agricultural lands, and ORVs used for commercial construction or inspection purposes.

Three types of nonhighway recreational users are defined. ORV recreational users include anyone using motorized recreational vehicles, including motorcycles, all-terrain vehicles, or four-wheel drive vehicles. Nonmotorized recreational users include hikers, skiers, mountain bikers, horseback riders or others that use nonmotorized trails and facilities. Nonhighway road recreational users include persons using nonhighway roads for recreational purposes such as hunting, fishing, wildlife viewing, camping, or sightseeing. Technical changes are made to several definitions including alphabetizing the entire definitions section.

The NOVA funds may be used by each agency for nonmotorized, ORV, or nonhighway road recreation facilities. At least annually the agencies must report to the nonhighway and off-road vehicle advisory committee on the expenditure of funds, and seek the advisory committee's advice on proposed expenditures. The nonhighway and off-road vehicle advisory committee is expanded to include governmental representatives and land managers.

Public hearing and notice requirements are removed for land acquisition and development projects, however, they must comply with either the State Environmental Policy Act or the National Environmental Policy Act.

**Substitute Bill Compared to Original Bill:** The substitute bill removes the restriction that only organized ORV groups may be voting members regarding the expenditure of ORV use permit monies and establishes that funds expended on nonmotorized recreation facilities are named after Ira Spring. The substitute bill also restricts ORV dealers from selling ORVs at retail without an ORV use permit, unless it is for an exempt use. Certain ORV use permit exemptions are eliminated including ORVs operating in an organized competitive event, ORVs operated on any lands owned or leased by the operator except agricultural lands, and ORVs used for commercial construction or inspection purposes.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** 90 days after adjournment of session in which a bill is passed, except for section 4 which takes effect July 1, 2004; and sections 5 and 6 which take effect June 30, 2005.

**Testimony For:** The stakeholders worked extensively to develop a consensus recommendation for the use of NOVA funds, and in the process developed better working relationships among the various user groups. The proposal provides flexibility, clarity, and accountability. Future consideration should be given to direct appropriations to agencies to save time and resources spent on applying for grant funds.

**Testimony Against:** None

**Persons Testifying:** Rep. Condotta; Jonathan Guzzo, Washington Trails Association; Jim King, Citizens for Parks and Recreation; and Bonnie Bunning, Department of Natural Resources.

**Persons Signed In To Testify But Not Testifying:** John E. Spring; Paul Dahmer, Washington Fish and Wildlife; Janet Shonk, Washington State Parks and Recreation; Eddie Armstrong, Washington State Horse Council; Nina Carter, Audubon Society; Craig Engering, Sierra Club; and Frank J. Warnke, Advocates INC.