

# HOUSE BILL REPORT

## 2SHB 1698

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### As Amended by the Senate

**Title:** An act relating to outdoor recreation programs.

**Brief Description:** Concerning the distribution and use of funds provided to off-road vehicle and nonhighway road recreational activities.

**Sponsors:** By House Committee on Capital Budget (originally sponsored by Representatives Cooper, Anderson, Wood, Jarrett, O'Brien, Murray, Upthegrove, Pflug and Dunshee).

**Brief History:**

**Committee Activity:**

Fisheries, Ecology & Parks: 2/11/03, 2/27/03 [DPS];  
Capital Budget: 3/7/03, 3/10/03 [DP2S(w/o sub FEP)].

**Floor Activity:**

Passed House: 3/15/03, 57-38.  
Senate Amended.  
Passed Senate: 4/11/03, 49-0.

#### Brief Summary of Second Substitute Bill

- Adjusts the distribution requirements for the Interagency Committee for Outdoor Recreation's (IAC) Nonhighway and Off-road Vehicle Account (NOVA) grant program.
- Increases the NOVA distribution to State Parks from 2 percent to 4 percent and decreases the distribution to the IAC grant program by the same amount.
- Requires the fuel use study to be updated every six years and requires membership on the NOVA advisory committee to be proportional to recreational interests identified in the study.

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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 7 members: Representatives Cooper, Chair; Berkey, Vice Chair; Hinkle, Assistant Ranking Minority Member; Buck, Hatfield, O'Brien and Upthegrove.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Sump, Ranking

Minority Member; and Pearson.

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

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## HOUSE COMMITTEE ON CAPITAL BUDGET

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Fisheries, Ecology & Parks. Signed by 18 members: Representatives Dunshee, Chair; Hunt, Vice Chair; Priest, Assistant Ranking Minority Member; Benson, Blake, Chase, Flannigan, Hankins, Hinkle, Kirby, Lantz, McIntire, Morrell, Murray, O'Brien, Simpson, Veloria and Woods.

**Minority Report:** Do not pass. Signed by 7 members: Representatives Alexander, Ranking Minority Member; Armstrong, Bush, Mastin, Newhouse, Orcutt and Schoesler.

**Staff:** Charlie Gavigan (786-7340).

### **Background:**

The motor vehicle fuel tax supports the state transportation system including the construction and maintenance of state roads and highways. However, fuel tax paid on gasoline consumed for recreational purposes on nonhighway roads is used to support nonhighway and off-road vehicle recreational facilities. Examples of nonhighway purposes include driving a vehicle on a forest road or operating an all terrain vehicle on a trail. The treasurer deposits 1 percent of the fuel tax revenue, based on a fuel tax rate of 18 cents per gallon, into the Nonhighway and Off-Road Vehicle Account (NOVA). Funds from the NOVA account are distributed by statutory formula including:

- 40 percent is deposited into the Off-Road Vehicle (ORV) account for the Department of Natural Resources (DNR) to maintain and manage ORV and nonhighway road recreational facilities on DNR land;
- 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 into the NOVA account and administered by the Interagency for Outdoor Recreation (IAC) for the planning, maintenance and management of ORV and nonhighway road recreational facilities, as well as ORV

education and law enforcement programs.

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.

The 2001 Capital Budget (Section 346 (3), Chapter 8, Laws of 2001, Second Special Session) appropriated \$175,000 to the IAC to contract with an independent entity to study the source and use of funds provided to off-road vehicle and nonhighway road recreational activities. The fuel use survey determined 25.7 million gallons of motor vehicle fuel is estimated to have been consumed on nonhighway roads in the following categories:

- 20 percent motorized recreation activities (riding motorbikes, ATVs, snowmobiles);
- 31 percent nonmotorized related activities (hiking, mountain biking, horseback riding); and
- 49 percent "other" (camping, sightseeing, hunting, fishing).

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

#### **New Definition**

Nonhighway road recreation facility is defined as trails and facilities that are accessed by nonhighway roads and intended solely for nonmotorized recreational uses. ORV use area is the entire area designated for ORV use, including campgrounds and approved buffer areas.

#### **New Distribution Requirements**

The DNR's minimum distribution from the ORV account for ORV facilities is increased from not less than 10 percent to not less than 30 percent. The State Parks and Recreation Commission's ORV distribution is increased from 2 percent to 4 percent and the allowed uses of the funds are expanded to include nonhighway road recreation projects.

The NOVA allocation for the IAC's grant program is decreased from 54.5 percent to 52.5 percent. The expenditure requirements for the grant program are adjusted including:

- 1) 50 percent must be spent for facilities consistent with the results of the fuel use study including nonhighway road recreation projects or nonhighway and ORV education and information;

2) Not more than 60 percent of funds not expended in category 1 for ORV recreation facilities; and

3) Not more than 60 percent of funds not expended in category 1 for nonhighway road recreation.

### **Study Update**

Beginning in 2007, the IAC shall update the fuel use study every six years. The IAC is directed to contract with an independent entity to study the source and make recommendations on the distribution and use of funds provided to off-road vehicle and nonhighway road recreation facilities. The study must determine the relative portion of the motor vehicle fuel tax revenues that are attributable to vehicles operating off-road or on nonhighway roads for recreational purposes.

### **NOVA Advisory Committee**

The NOVA advisory committee members must be from of a proportional representation of persons with recreational experience in areas identified in the most recent fuel use study.

### **EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment removes definition changes, the fuel use study update, and changes to the statutory distribution of NOVA funds. The Senate amendment further clarifies membership on the NOVA advisory committee by providing a list of people with certain recreational experience. The Senate amendment also directs the NOVA advisory committee to review the existing funding distribution and provide recommendations to the Legislature by January 1, 2004. The NOVA review must also include representation of county sheriffs, recreational land managers, the State Parks and Recreation Commission, the Department of Fish and Wildlife, the Department of Natural Resources, two members from each major caucus from the Senate appointed by the President of the Senate, and two members from each major caucus from the House of Representatives appointed by the Speaker of the House of Representatives. Senate members must be selected from the Parks, Fish and Wildlife Committee and the Ways and Means Committee, and members from the House of Representatives must be selected from the Fisheries, Ecology and Parks Committee and either Appropriations or the Capital Budget Committee.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (Fisheries, Ecology & Parks) The changes being proposed are consistent with the results of the fuel use study and are supported by other studies conducted by the IAC and the United States Forest Service. All stakeholders were invited to participate in the fuel use study and comment on the study methodology.

There has been a significant increase in demand for "muscle powered" activity. The needs for trail maintenance and facilities are great. The way the fuel tax refund should operate is the benefits should go to those who fund the program. Mountain bike users support both motorized and nonmotorized trails.

There are current inequities in the NOVA grant distribution. Recent NOVA grant funding awarded approximately 80 percent of the funding for ORV facilities and only 20 percent for nonhighway recreation. The recent study shows exactly the opposite distribution should occur.

**Testimony For:** (Capital Budget) There are inequities in the current Non-highway and Off-road Vehicle Account (NOVA) funding distribution that this bill addresses. More funding should go to non-highway recreation like hiking and other activities.

**Testimony Against:** (Fisheries, Ecology & Parks) The IAC and stakeholders should carefully review the results of the fuel use study and consider changes to the entire program. The stakeholder process should be allowed to occur and potential consensus changes could be brought to the Legislature next year.

The fuel use study is not consistent with sales data for ATVs, snowmobiles, and motorcycles. There have been significant increases in motorized uses and the study did not accurately capture that activity. The survey was flawed and too many surveys went to urban areas. The results of the study are not consistent with federal studies.

The trail needs for motorized uses are greater than for other uses because they can cover more miles. Motorized trails are heavily used by nonmotorized users, especially mountain bikes.

The bill will not help state agencies who need funding for maintenance of outdoor recreation facilities. The entire NOVA program should be evaluated. Changes being proposed will just lead to more conflicts among user groups. Tribes should be included in the process.

**Testimony Against:** (Capital Budget) None.

**Testified:** (Fisheries, Ecology & Parks) (In support) Representative Cooper, prime sponsor; Johnathan Guzzo and Chris Bell, Washington Trails Association; Francis Troje, The Mountaineers; Brian Jones, Backcountry Bicycle Trails Club; and Ken Konigsmark, Hiker representative, NOVA Advisory Committee.

(Opposed) Representative Cary Condatta; Dave Bowers, Puget Sound Enduro Riders; Tod Petersen, Northwest Motorcycle Association; Jim King, Citizens for Parks and Recreation; and Diane Nelson.

**Testified:** (Capital Budget) Ken Konigsmark, NOVA Advisory Committee; Chris Bell, Washington Trails Association; Frances Troje, The Mountaineers; Eddie Armstrong, Washington State Horse Council; and Jonathan Guzzo and Elizabeth Lunnsy, Washington Trails Association.