

Recommendations for the Use of NOVA Account Appropriations

Legislative report | September 30, 2022



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WASHINGTON STATE DEPARTMENT OF
NATURAL RESOURCES

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Executive Summary

In response to ESSB 5092, the Washington Department of Natural Resources (DNR) contracted BERK Consulting, a neutral third-party, to facilitate a collaborative process with an advisory committee of motorized and nonmotorized outdoor recreation stakeholders. The purpose of the advisory committee was make recommendations for the future use of Nonhighway and Off-road Vehicle Activities (NOVA) account appropriations, previously made to DNR starting in 2009. The committee met three times in May 2022 to learn about the history of the NOVA account, DNR's use of the appropriations since 2009, and to evaluate options for future appropriation of the funds. The outcome of that process was a report on the committee's considerations and a unanimous recommendation that the funds in question be allocated to the NOVA grant program administered by the Recreation and Conservation Office (RCO). These findings are in Appendix 1: NOVA Proviso Advisory Committee Report.

The Department submits this report to compliment the advisory committee's findings. It provides additional context to the Recreation Program's historical use of the funds, acknowledges the committee's recommendations, discusses the potential impacts to the program from losing NOVA funds, and evaluates alternative funding sources.



Figure 1: View from the summit of Silver Star Mountain in Yacolt Burn State Forest

Background

In the 2009-2011 biennium, the Department of Natural Resources (DNR) received a direct appropriation of \$871,000 from the Nonhighway and Off-road Vehicle Activities (NOVA) account. This money was intended to be used for implementation of DNR sign plans at off-road vehicle (ORV) facilities including Reiter Foothills, Ahtanum State Forest, Yacolt Burn State Forest, Elbe Hills, Sadie Creek, and Little Pend Oreille; as well as implementation of recreation plans at Reiter Foothills and Ahtanum State Forest. Since that initial biennium, DNR continued receiving approximately \$800,000 per biennium. As shown in Figure 2, the majority of the NOVA program account is allocated to statewide competitive grants that the Recreation & Conservation Office (RCO) administers.

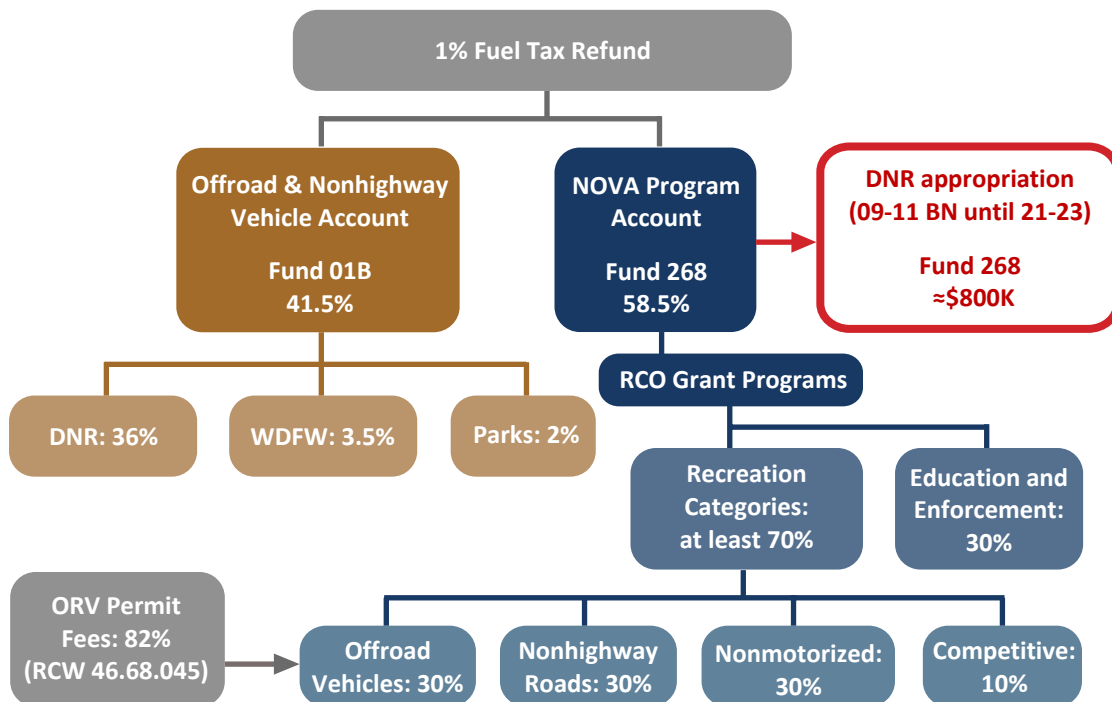


Figure 2: Fuel Tax Refund Distribution (RCW 46.09.520)

Over the past 7 biennia, the DNR Recreation Program used this direct appropriation to fund approximately 5% of its operating budget, including grants. The program provides opportunities for about 20,080,000 annual visitors who have access to 162 recreation facilities and more than 1,300 miles of trails on about 5.6 million acres of land. In addition to paying for staff time, the NOVA appropriation funded new facility projects including the Elbe ORV campground, the Reiter trailhead, Indian Camp Campground, and trailhead improvements at Capitol Forest’s Middle Waddle trailhead. It also funded recreation plans for Green Mountain, Snoqualmie Corridor, and Naneum to Columbia.

In the 2021 session, the Legislature passed a proviso that provided the following direction to DNR:

Within amounts appropriated in this section, the department, in collaboration with motorized and nonmotorized outdoor recreation stakeholders, must submit to the appropriate committees of the legislature recommendations for the use of NOVA account appropriations, by September 30, 2022. (ESSB 5092 Section 310)

The proviso was prompted by questions from stakeholders about why an ongoing, direct appropriation was made to DNR, rather than going into RCO’s NOVA grant program fund competitive grants statewide. No documentation was found that explains why appropriations continued from the 2011-2013 biennium through the 2019-2021 biennium. ESSB 5092 directed the appropriation to continue through the 2021-2023 biennium only.

DNR contracted a neutral 3rd party, BERK Consulting, and convened an advisory committee comprised of motorized and nonmotorized outdoor recreation stakeholders in spring 2022. This group met over the course of three meetings to make a recommendation to the legislature on the future appropriation of this money. See **Appendix 1: NOVA Proviso Advisory Committee Report** for details.



Figure 3: Work at the new Indian Camp in Teanaway Community Forest

Advisory Group Discussion

DNR staff observed that after establishing a shared understanding of the NOVA account and the history of its allocation, advisory group discussions focused on three primary themes: impact to other grant applicants, transparency, and impact to DNR.

Impact to other grant applicants - If DNR had not received the direct NOVA appropriation, an additional ~\$800,000 per biennium may have been distributed into the grant categories as shown in Figure 2 (minus RCO’s agency indirect charge). Group members noted that if these funds had been distributed to RCO, other applicants, including some of their own organizations, may have received more grant funding than they had otherwise. They acknowledged that DNR also would likely have received additional grants

in that scenario. Some members also shared concerns about DNR's use of the direct NOVA appropriation as match for NOVA and other grants.

Transparency of distribution by use-type

Advisory group members expressed concern that by DNR receiving a direct appropriation, rather than receiving funding via the RCO grant process, there was reduced transparency in how the money was spent. DNR has ensured that this funding is spent on NOVA-eligible sites for both motorized and nonmotorized uses. However, the percentage that DNR spent on each use-type (motorized or nonmotorized) cannot be verified in the same manner as if those same funds were distributed through RCO grants.

Impact to DNR - Most advisory committee members represent user groups that benefit from recreation opportunities on DNR-managed lands supported by the direct

NOVA appropriation. Therefore, many acknowledged that revoking the direct NOVA funding would have an impact on these opportunities. However, the consensus was that this is an acceptable trade-off given the concerns of transparency and fairness to other grant applicants. An additional deciding factor for some members was the recently passed \$10 million ongoing State General Fund appropriation for maintenance activities (ESSB 5693 SL Sec 310). Others expressed concern that State General Fund is not as reliable as NOVA, as it is subject to a number of economic influences, and therefore may be reduced by the Legislature at any time. An example of a reduction in General Fund State is the 2011-2013 biennium, after the Great Recession.



Advisory Committee Recommendation

Weighing the above factors, the advisory committee recommended that **DNR not receive the direct NOVA appropriation in future biennia and that the funds instead go to the NOVA grant program administered by RCO**. Some committee members acknowledged that this represents a potentially disruptive cut to DNR's base operating budget, and also expressed overall support for continuing to identify sustainable revenue sources for DNR, given its increasing role in recreation statewide and the rising demand for recreational opportunities on public lands. The advisory committee based their recommendation on the following factors:

- DNR may not be spending the funds on projects that meet the intent of the original appropriation;
- Their desire to restore taxpayer confidence, transparency, and be fair to other grant applicants;

- DNR received a recent appropriation of \$5 million (\$10 million ongoing) from the State General Fund for maintenance activities¹ (ESSB 5693 SL Sec 310).

RCO’s position is that while they have a productive and collaborative relationship with DNR, they would be unlikely to support anything that reduces funding to their programs, which the historical direct appropriation did.

Potential Impacts to DNR’s Recreation Program from NOVA Loss

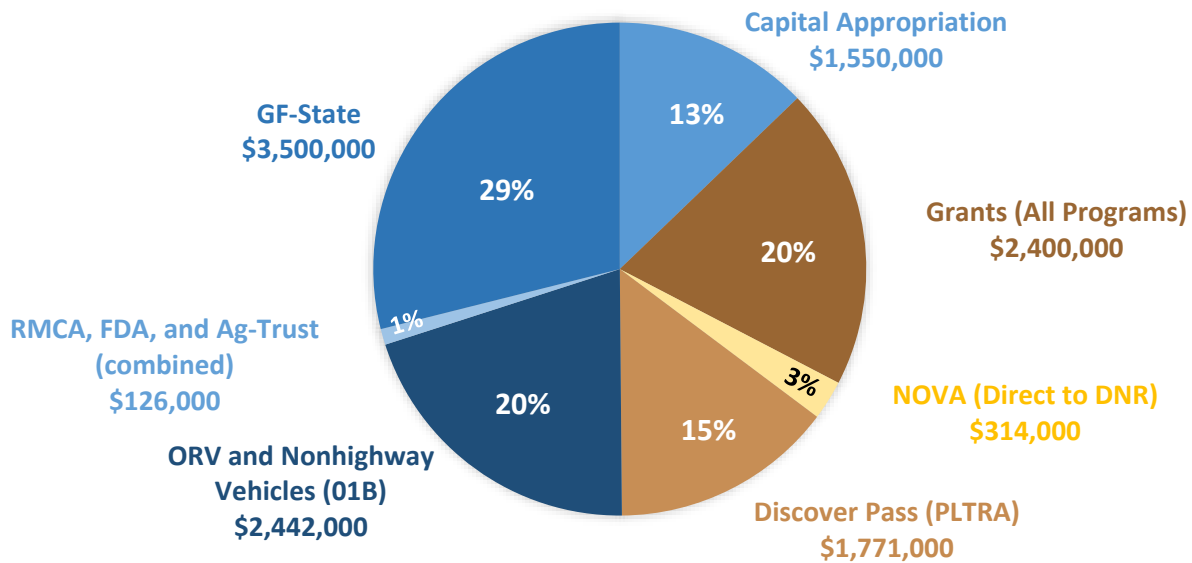


Figure 5: Annual Recreation Program Funding (FY23), after agency indirect. One-time money not included. Source: 2021-2023 Step Table (Initial Allocation)

DNR shares the committee’s desire for transparency and fairness of distribution of funds. Re-directing the NOVA appropriation away from DNR will result in an approximate \$800,000 reduction per biennium in the DNR Recreation program’s budget and therefore may reduce resources to fund some recreational activities in the future. For example, the agency may need to reduce services where the \$10 million maintenance money cannot be substituted for all needs. This includes areas such as Yacolt Burn State Forest, Capitol State Forest, Walker Valley ORV, Tiger Mountain, Reiter Foothills, Blanchard Mountain, Harry Osborne State Forest, and within the Green Dot road system in Southeast Washington. The expected impacts to these and other areas include the following.

DNR will lose a key funding source for future landscape planning. DNR relies on landscape-level, stakeholder-driven recreation planning in order to prioritize projects and expenditures, determine which grants to apply for, and ensure that its recreation decision-making is in line with public expectations. However, there are few funding sources available to the program for recreation planning. DNR cannot use the \$10 million State General Fund appropriation for recreation planning because the stated intent

¹ The Parks and Recreation Commission and the Department of Fish and Wildlife received a similar appropriation

is that these funds be used for maintenance activities. Recreation planning for DNR, especially landscape-level, does not typically compete well for RCO grants because there tends to be a preference for development projects or planning for a specific development project. In addition, capital funding cannot be used for landscape-level planning because it is considered long-range development planning. Therefore, DNR has used NOVA and Discover Pass² (Park Land Trust Revolving Account) funds as essential sources to accomplish key recreational planning. By removing the NOVA appropriation, there will be less funding for this work. This may limit or prohibit recreation planning in landscapes such as Yacolt and the Marckworth.

DNR will have less funding to acquire and maintain control and tenure for recreation sites. RCO requires each grant recipient to have long-term control over a property on which they are developing new recreational facilities. To accomplish this, the Recreation Program must pay for a restrictive covenant (lease) from trust beneficiaries³ to meet the requirements of the Multiple Use Act (RCW 79.10.120), depending on the location, in order to gain control and tenure on any state trust land property on which it is developing a trailhead, parking lot, or other recreational facility. Not all of DNR's funding sources can be used for this expense and compensating the trust can be prohibitively expensive. Without the NOVA appropriation, DNR's ability to develop new facilities and retain control of existing ones will be limited. These recreation facilities are critical to providing safe, sustainable recreation that meets increasing user needs. For example, this would impact sites such as Indian Camp, Beverly Dunes, Snag Lakes and Western lakes, Sammish Overlook, Reiter Foothills ORV, and more. Due to this, future Capital project funding will become more essential to cover these costs.

DNR will lose funds used to match RCO grants. Combined, RCO grants comprise 27% of Recreation's total budget and Education/Enforcement and Maintenance grants comprise 28% of the program's operating budget. When applying for RCO grants, DNR must supply matching funds from its budget in order to have competitive applications. DNR will no longer have access to approximately \$800,000 of match funding for new grants. This could reduce the agency's budget by up to an additional \$800,000, because match ratios can range between 40 and 50 percent. While the \$10 million State General Fund appropriation can be used as match, it can only be used for maintenance grants. Planning, development, acquisition, or education and enforcement are not an allowed use, and combined they account for about 60% of DNR's total grant awards on a given year.

² Discover Pass revenue distribution, by agency: 8% DNR; 8% Fish and Wildlife; 84% State Parks

³ DNR's Recreation Program occurs across 3.1 million acres of trust lands managed by the DNR. State trust lands are lands held in trust and managed to generate revenue for specific trust beneficiaries, including schools and counties.

DNR may have less education and outreach staff and materials for key landscapes. DNR has used the NOVA appropriation to fund education and outreach at DNR’s recreation sites. With this reduction, DNR may need to reduce its education and outreach staff, meaning fewer personnel on the ground that can communicate with the public on how to safely and responsibly recreate, prevent wildfire starts, and reduce the amount of illegal dumping that occurs on public lands. In fiscal year 2022, DNR spent over \$80,000 to clean up and repair damage from dumping and vandalism. In addition to preventing negative behavior, the agency has been focusing on how to communicate in welcoming ways with diverse users of state lands, including multilingual and/or graphics-based signage. The agency will no longer have the funds for this important need.



Figure 6: DNR employee standing in front of kiosk at Ahtanum State Forest

DNR will lose an essential funding source to keep up with user demand. New development projects, which are necessary to keep up with the increase in users and provide safe, responsible recreational opportunities, will no longer have one of their stable funding sources. Swapping funding sources to meet this need is addressed below.

Alternative Funding Sources

DNR’s priority is to continue to provide safe, sustainable recreation to the more than 20 million annual visitors to DNR-managed lands and is considering the following alternative funding sources to NOVA for Recreation’s core business:

Capital Funding: While Capital funding cannot be used for the landscape-level planning that NOVA can fund, it will be an increasingly important fund source for acquiring and sustaining control and tenure (leases) for recreation sites on trust lands. Funding Recreation’s *Safe and Sustainable Recreation* Capital Budget request in 2023, and in the future, will help cover control and tenure costs (in addition to paying for the development itself).

Operating Funding (GF-S): DNR is submitting a 23-25 Operating Budget request for *Conservation Corps Partnerships* (formerly Puget Sound Corps Capital request) to pay for conservation corps crew work on DNR-managed lands statewide. The Recreation Program will utilize some of this crew time and fully funding this request in the operating budget may create opportunities for regions to shift funds to cover some additional landscape planning costs from Discover Pass revenue (Parkland Trust Revolving Account).

\$10 Million Maintenance Funding (GF-S): Now more than ever, DNR needs the \$5 million maintenance backlog funding (\$10 million ongoing for maintenance) to keep trails, trailheads, and other recreation facilities open and maintained in light of a 21% increase in visitors during the pandemic. Projects to keep recreation sites open include replacement of bathroom facilities, gates, kiosks, deteriorating bridges that access campgrounds and trails, and conducting trail maintenance for safety and prevention of environmental degradation. While the agency can divert some of this funding to pay for the loss of NOVA, the maintenance funding would not be an allowable source to cover much of the essential work identified in the preceding section. This includes landscape-level recreation planning, acquisition of control and tenure to develop new sites or renew leases, and grant match or direct funding for development and education projects.

RCO Grants: Historically, RCO grants comprise approximately 27% of DNR's total budget and are a possible source of funding to replace the lost NOVA funds. However, having grant match is critical to a competitive application and as described, DNR will have reduced match dollars. Furthermore, grants operate on a two-year cycle, which results in an unreliable source to fund staff and complete more complex, multi-year development projects. Increasing DNR's total grant award by an equal amount to NOVA will not result in the same geographical distribution of funds that a direct appropriation allows. For example, historically grant projects serving high population areas are more competitive, so DNR expects Eastern Washington and the Olympic Peninsula will not be able to make up the difference by using grants.

Other sources: In addition to the replacement funding sources discussed above, the advisory committee recommended several other opportunities. These are not described in detail because they are outside the scope of this report and impact a broader group of stakeholders and agencies. However, they may be considered for the future and are listed in Appendix 1: NOVA Proviso Advisory Committee Report.

Concluding Remarks

DNR acknowledges that while the legislature may choose a different path, the unanimous recommendation of the advisory committee is to not continue the agency's direct NOVA appropriation. Therefore, the agency is planning its 2023-2025 budget with the assumption of not receiving the appropriation and identifying where services, education, or planning may need to be cut. The agency is also submitting a *Safe and Sustainable Recreation* Capital Budget request in addition to a *Conservation Corps Partnerships* Operating Budget request. If fully funded, these will help offset some of the planning and service reductions otherwise anticipated.

DNR looks forward to working with the legislature, stakeholders, and partners to identify and implement long-term solutions to fill the gap in needs that remain unmet by available and stable alternative funding sources.

Appendix 1: NOVA Proviso Advisory Committee Report

Introduction

In April 2022, the Department of Natural Resources (DNR) began an Advisory Committee process related to a proviso from the 2021 legislative session, regarding the agency's NOVA funding allocation:

(26) Within amounts appropriated in this section, the department, in collaboration with motorized and nonmotorized outdoor recreation stakeholders, must submit to the appropriate committees of the legislature recommendations for the use of NOVA account appropriations, by September 30, 2022. (Page 345 of [ESSB 5092](#); 21-23 operating budget)

The purpose of the Advisory Committee was to bring together members of the motorized and non-motorized recreation communities with the goal of making a group recommendation for the use of this portion of the NOVA fund to DNR. DNR will then draft the legislative report to submit to the appropriate legislative committees. The Committee consisted of Recreation and Conservation Office (RCO) NOVA Program Advisory Committee members and two invited stakeholders from the motorized vehicle community who participated in the legislative discussion on this topic.

The Committee met three times in May 2022 to learn more about the NOVA account, the history of DNR's NOVA funding, and how the funds have been spent since the first appropriation in 2009-2011. The group then reviewed five possible options for allocating the funds following the 2021-23 biennium. This report contains the Committee's recommendations.

Background

Per [RCW 46.09.520](#), 1% of state motor vehicle fuel tax revenues are refunded and placed into two accounts. The ORV & nonhighway vehicle account (fund 01B) receives 41.5% of this refund and is directly administered by DNR, the Department of Fish and Wildlife (WDFW) and State Parks. The remaining 58.5% is credited to the nonhighway and off-road vehicle activities (NOVA) program account (fund

Committee Roster

- Heide Andersen, Washington State Department of Fish and Wildlife
 - Suzanne Cable, Federal government
 - Crystal Crowder, Four-wheel drive
 - Leah Dobey, Recreation and Conservation Office
 - Kathy Doubt, Equestrian
 - Linda Driscoll, Premier Polaris
 - Denise Garcia, Nonhighway road
 - Lance Hansen, All-terrain vehicle
 - Ted Jackson, WA ATV
 - Richard Johnson, Nonhighway road
 - Randy Kline, State Parks (invited)
 - Yvonne Kraus, Mountain bike
 - Gary Paull, Hiking
 - Bryant Robinson, Local government (invited)
 - John Spring, Nonhighway road
 - Nancy Toenyan, Motorcycle
 - Holly Weiler, Hiking
-

268), which also receives 82% of revenue from off-road vehicle registrations and permits.¹ This account is administered by the Recreation and Conservation Office and is commonly known as the NOVA program, which funds competitive grants for both motorized and non-motorized activities. See Figure 2 the DNR report (Recommendations for the Use of NOVA Account Appropriations) for an illustration of the refund distribution.

In the 2009-11 biennium, DNR received a direct appropriation of \$871,000 from the NOVA account's excess fund balance. This appropriation was specifically intended and used for:

- Implementation of DNR sign plan at ORV facilities (Reiter, Ahtanum, Yacolt, Elbe, Sadie Creek, Little Pend Oreille)
- Implementation of Reiter Foothills Rec Plan
- Implementation of Ahtanum Rec Plan

Since that time, the agency received an average of \$762,000 per biennium of direct NOVA funding, the bulk of which helps to fund DNR's Recreation Program, and a smaller portion is used for the agency's forest roads program, which helps maintain accessibility to recreation facilities. DNR Recreation has come to rely on this allocation as part of its base operating budget, supporting staff salaries, signage and outreach, and projects related to motorized recreation. This amount typically comprises 5% of DNR's total operating budget, including all operations grants.

For the 2021-23 biennium, DNR was appropriated \$779,000 to use on motorized, non-motorized, and non-highway road activities from the NOVA program account and directed to undergo a stakeholder engagement process and make recommendations to the legislature on the use of these NOVA account funds going forward. See RCW [46.09.520](#) for details on the 2009-11 and 2021-23 appropriations to DNR.

Committee Recommendations

To help develop discussion of recommendations, DNR staff created a matrix of five options for the future use of funds with notes on the impacts to DNR and the NOVA fund and what actions would be required (see Exhibit 1). An additional piece of context that shaped the Committee's recommendations was the \$5 million allocated to DNR from the State General Fund (GF-S) in the last legislative session to fund the backlog of maintenance in fiscal year 2023 and \$10 million per biennium, ongoing. For some members this new money makes an \$800,000 loss to DNR moot since the funds could be replaced with this new money and/or DNR can still apply for NOVA competitive grant funds. However, others are concerned about the sustainability of the \$10 million per biennium should State revenues decline and funds get swept.

This GF-S maintenance money must address the backlogged and ongoing maintenance needs. These funds are for on the ground purposes such as trail and road maintenance, replacement of signs and gates, tools and equipment, and maintenance and operations staff. Funds cannot be used for education, enforcement, outreach support, planning, or development projects.

There was unanimous support for Option C that would return the \$800,000 to the NOVA grant program administered by RCO. Several members noted that the funding was no longer meeting the original intent, continued past the original allocation in a way that was not transparent, and needs to be reallocated to the grant program to restore taxpayer confidence and transparency. While a few members stated the

¹ As authorized by RCW 46.68.045 the Department of Licensing currently retains the other 18% to cover administrative expenses.

impacts to DNR of losing \$800,000 in operational funds could be disruptive and potentially reduce services, the previous concerns overrode this. There was also discussion that if the funds were returned to the grant program pool, DNR would likely get about one third to one half of it back through grants. However, competitive awards would not necessarily fund the same things, or at the same sites.

Additional discussion around Option C included the perspective that returning this money to the competitive grant fund is the fairest in terms of the interests of recreation users. Others noted they have had projects that were just below the cut award off and thus not funded so anything to increase the overall amount available for project funding is desired. RCO noted that they have a productive and collaborative relationship with DNR but would be unlikely to support anything that permanently reduces funds to their programs.

At least one member supports advocating for additional funding to offset DNR’s revenue loss as described in **Option D**, but could also support **Option C**. There was general support for continuing to identify sustainable revenue for DNR given its increasing role in recreation and demand for the trails and open spaces.

Exhibit 1. Options Reviewed

Option	Impact to DNR	Impact NOVA Fund	Action Required
A. DNR keeps current NOVA appropriation to use for Motorized, Non-motorized, and Non-Highway Road recreation opportunities	No budget impact; base budget remains with high level of flexibility	Approximately \$800K of the 58.5% of the 1% fuel tax would not go to the NOVA account for competitive grant applications. This is the equivalent of up to 4 fully funded grants in the NOVA categories.	Updated language needed in RCW 46.09.520; Possibly: more clarity needed on how much is appropriated to DNR and why.
B. DNR keeps current NOVA appropriation to use on specific project types/ specific landscapes/etc. as recommended by Advisory Committee	Base budget remains; overall operating budget will require some reallocation to pay for staff and materials that may not fit within sideboards	Approximately \$800K of the 58.5% of the 1% fuel tax would not go into the NOVA account for competitive grant applications. This is the equivalent of up to 4 fully funded grants in the NOVA categories.	Updated language needed in RCW 46.09.520; Sideboards must be developed by committee. Possibly: more clarity needed on how much is appropriated to DNR and why.
C. NOVA appropriation to DNR does not continue past 21-23 biennium	Operating budget reduction will result in some on-the-ground impacts. Signage and other outreach materials will likely be reduced, or paid for out of other sources, reducing capacity for maintenance and staff coverage.	NOVA grant program will see increase in total funding of about \$800K to be split among the existing NOVA programs (30% to E&E; 70% split 3 ways between ORV, Non-Moto, and Off Highway Road). This is the equivalent of up to 4 fully funded grant projects.	No additional action required.
D. NOVA appropriation to DNR does not continue past 21-23 biennium and advocate for additional funding to offset the loss to DNR	No impacts.	NOVA grant program will see increase in total funding of about \$800K to be split among the existing NOVA programs (30% to E&E; 70% split 3 ways between ORV, Non-Moto, and Off Highway	Requires legislative action to appropriate state general funds to DNR.

operating funds		Road. This is the equivalent of up to 4 fully funded grant projects.	
E. DNR keeps NOVA appropriation through the 2029-2031 Biennium when the cap on the fuel tax refund is set to be removed starting July 1, 2031.	Base budget remains for next four biennia and would likely remain close to the same starting in 31-33 because of increased overall fuel tax fund.	Approximately \$800K of the 58.5% of the 1% fuel tax would not go to the NOVA account for competitive grant applications for the next four biennia. This is the equivalent of up to 4 grants in the NOVA categories.	Updated language needed in RCW 46.09.520. Committee could recommend sideboards for fund use in upcoming biennia.

Other Revenue Ideas

During discussion of the NOVA funds options, members shared several revenue ideas that are summarized here for DNR leadership.

- Recreation statewide receives support from the 1% refund from the gas tax for nonhighway road use, as authorized in the 18th Amendment of the State Constitution. As the State develops a road usage charge (RUC), they need to include a similar 1% nonhighway roads gas tax refund mechanism into the RUC program structure.
- Revisit the percentage allocation for Discover Pass revenue to better reflect the demand/visitation data for the three agencies.
- Transparency of the allocation of gas tax funds to DNR, WDFW, and State Parks was raised as a concern as was providing other opportunities for the agencies to compete for grants.
- Consider other permit fees for recreations users (equestrian trailers, bikes) that would help fund recreation.
- Consider using part of the sales tax on recreation equipment and apparel to fund recreation.