
INTRODUCTION

At the direction of the Executive Branch Audit Committee, we conducted an audit of the Off-Highway Vehicles (OHV) program administered by the Nevada Commission on Off-Highway Vehicles (commission). Our audit addressed the following four questions:

- ✓ What is the commission's role?
- ✓ What services must the commission provide?
- ✓ Is the state the proper level of government to provide these services?
- ✓ If state government is the appropriate level of government, is the commission carrying out its duties efficiently and effectively?

Our audit focused on current funding structure, improving OHV program compliance, and the commission being hosted by a state agency.

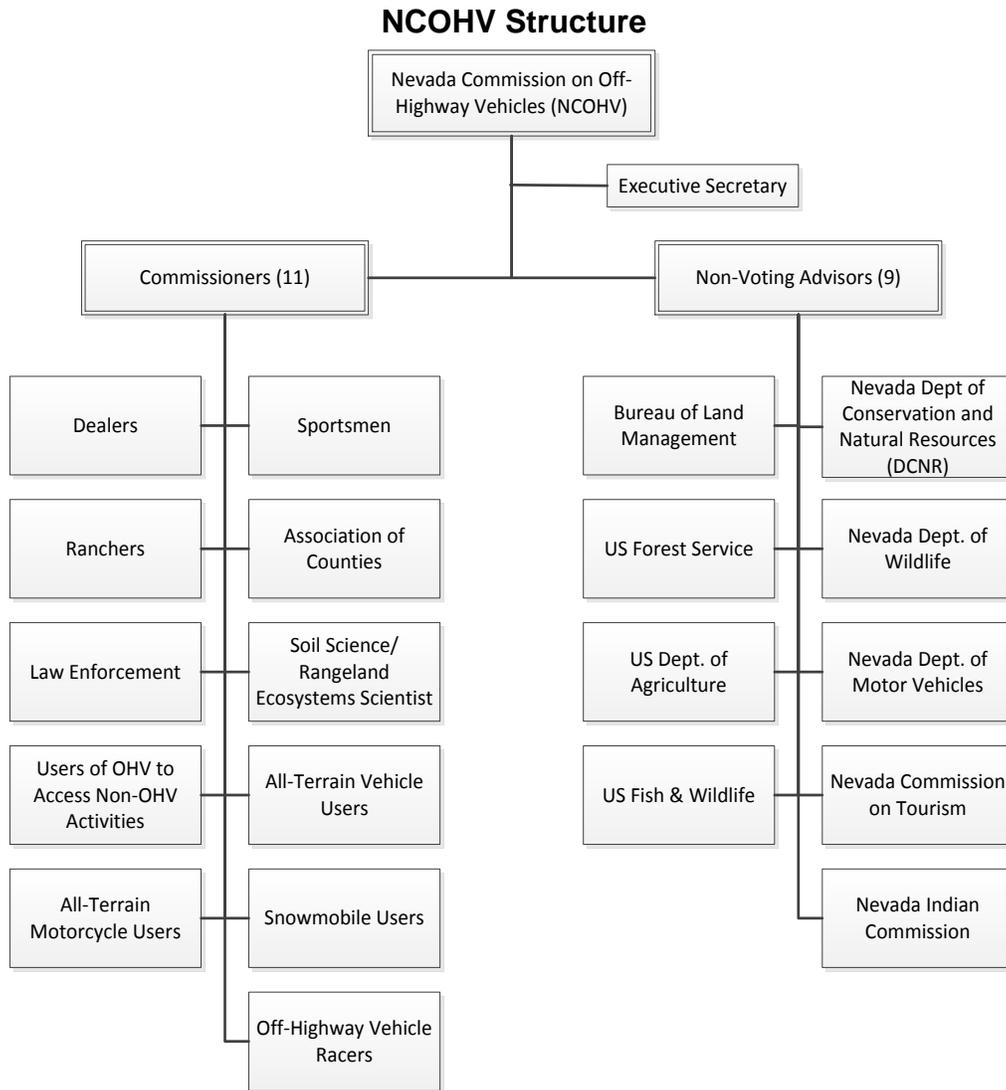
Commission's Role and Public Purpose

The Nevada Commission on Off-Highway Vehicles was established on July 1, 2011 to promote the responsible use of recreational off-highway vehicles pursuant to NRS 490. The commission administers the OHV program through its granting authority of OHV registration fee proceeds. Grants are provided for law enforcement, education/public awareness and OHV trail management. Specifically, the commission's duties are to:

- Adopt regulations setting forth who and the manner for which a grant of money may be applied;
- Adopt regulations for awarding grants;
- Adopt regulations for determining the acceptable performance of work on a grant project;
- Approve the completion and payment of money for work performed on a grant project;
- Monitor the accounting activities of the Account for Off-Highway Vehicles;
- Prepare a report for each regular session of the Legislature;
- Elect a chair, vice chair, secretary and treasurer; and,
- Solicit nine nonvoting advisors to assist the commission.

The commission was established as an independent body with no administrative or budgetary support from an executive branch agency. The commission is made up of eleven members representing OHV dealers, enforcement personnel, local governments, ranchers, resource specialists, sportsmen, and OHV users. Each commissioner is appointed by the Governor for a three-year term, with no more than two consecutive terms. An advisory committee with membership representing federal and state agencies also participates in a non-voting capacity. Non-voting advisors are solicited by the commission for two-year terms. See Exhibit I.

Exhibit I



Nevada's program to register and title OHVs went into effect July 1, 2012. An OHV is defined as a motor vehicle that is designed primarily for off-highway and all-terrain use, including, but not limited to:

- All-terrain vehicles, including large all-terrain vehicles;
- All-terrain motorcycles;
- Dune buggies; and,
- Snowmobiles.

NRS 490 has several exemptions to the titling and registration requirement such as: OHVs used by federal, state, and municipal governments; OHVs used solely for husbandry; by public utilities; for Search & Rescue operations; by participants in organized racing; and by non-residents in the state less than fifteen days.

The program requires the licensing of OHV dealers and titling of all new OHVs as well as OHVs resold through an authorized dealer. As of July 1, 2012, annual registration became mandatory. Initial registration requires certain evidence of ownership and payment of applicable sales tax. The Department of Motor Vehicles (DMV) is responsible for licensing OHV dealers, as well as titling and registering OHVs.

Proper Level of Government

The state is the proper level of government to provide these services because they involve public safety, use and maintenance of Nevada's resources (e.g., land and trails used by OHVs). The commission also provides Nevadans representation in policy development and execution for off-highway vehicles.

Scope and Objectives

We began audit work in June 2014. In the course of our audit, we interviewed commissioners, DMV officials, and OHV community stakeholders. Additionally, we analyzed reports from the department and reviewed Nevada Revised Statutes. As part of our field work, we surveyed other states concerning OHV programs. We interviewed officials from Nevada Department of Wildlife and Nevada Division of State Parks regarding the hosting of the OHV program. We concluded field work and testing in October 2014.

Our audit focused on the following objectives:

- ✓ Does the current funding structure maximize funds for OHV projects?
- ✓ Can OHV program revenue be increased?
- ✓ Should the commission be hosted by a state agency?

We performed our audit in accordance with the *Standards for the Professional Practice of Internal Auditing*. The Division of Internal Audits expresses appreciation to the commission and the department's management and staff for their cooperation and assistance throughout the audit.

Contributors to this report included:

Vita Ozoude, CMA, CGMA, CPA, MBA
Executive Branch Audit Manager

Jeff Landerfelt, MBA
Executive Branch Auditor

Nevada Off-Highway Vehicle Commission Response and Implementation Plan

We provided draft copies of this report to the commission chairman for his review and comments. The chairman's comments have been considered in the preparation of this report and are included in Appendix A. In his response, the chairman accepted our report and noted our recommendations will be discussed at their next commission meeting. The commission will determine the timetable for implementing our recommendations.

NRS 353A.090 specifies within six months after the final report is issued to the Executive Branch Audit Committee, the Administrator of the Division of Internal Audits shall evaluate the steps the commission has taken to implement the recommendations and shall determine whether the steps are achieving the desired results. The administrator shall report the six month follow-up results to the committee and commission officials.

The following report contains our findings, conclusions, and recommendations.

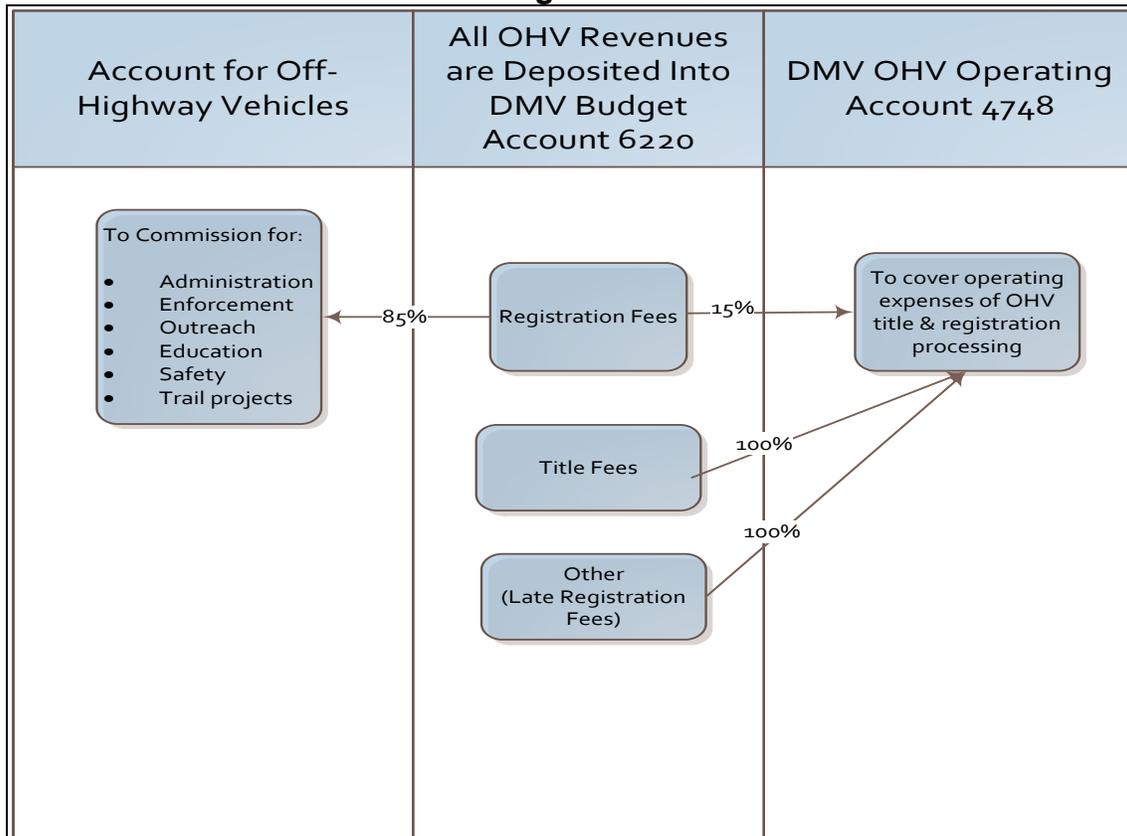
Does the Current Funding Structure Maximize Funds for OHV Projects?

The commission should revise the current funding structure to maximize funds for OHV projects by seeking legislation that would allow the Department of Motor Vehicles (DMV) to transfer program fees in excess of DMV's program administrative expenses to the commission. In addition, the commission should coordinate with DMV to obtain program revenue and expense data in order to verify the accuracy of their revenue apportionment. We estimate this could benefit the commission by up to \$2.78 million over ten years.

DMV collects registration fees, title fees, and late registration fees. As of July 1, 2013, per statute, the revenue is allocated as follows: 85 percent of the registration fees goes to the commission and 15 percent goes to DMV for administration of OHV titling and registration. Additionally, 100 percent of title and other fees go to DMV. Registration fees are set by the commission, statutorily limited to between \$20 and \$30, and currently set at \$20. See Exhibit II.

Exhibit II

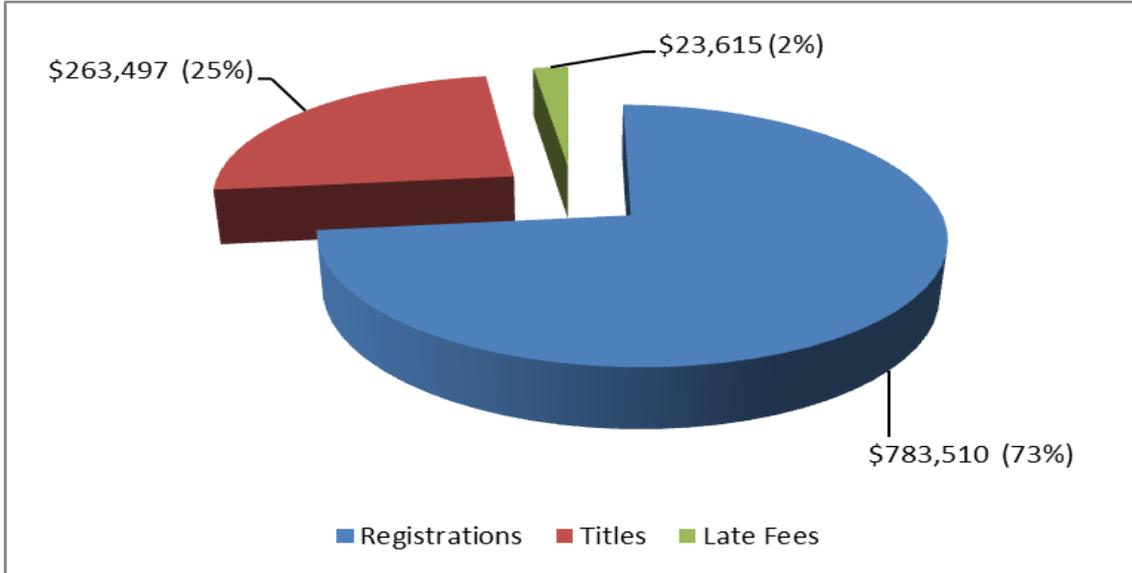
OHV Program Revenue



In fiscal year 2014, about \$1.1 million in OHV-related fees were collected. Registration fees made up 73 percent, title fees 25 percent and late fees 2 percent. See Exhibit III.

Exhibit III

OHV Fee Collections for Fiscal Year 2014

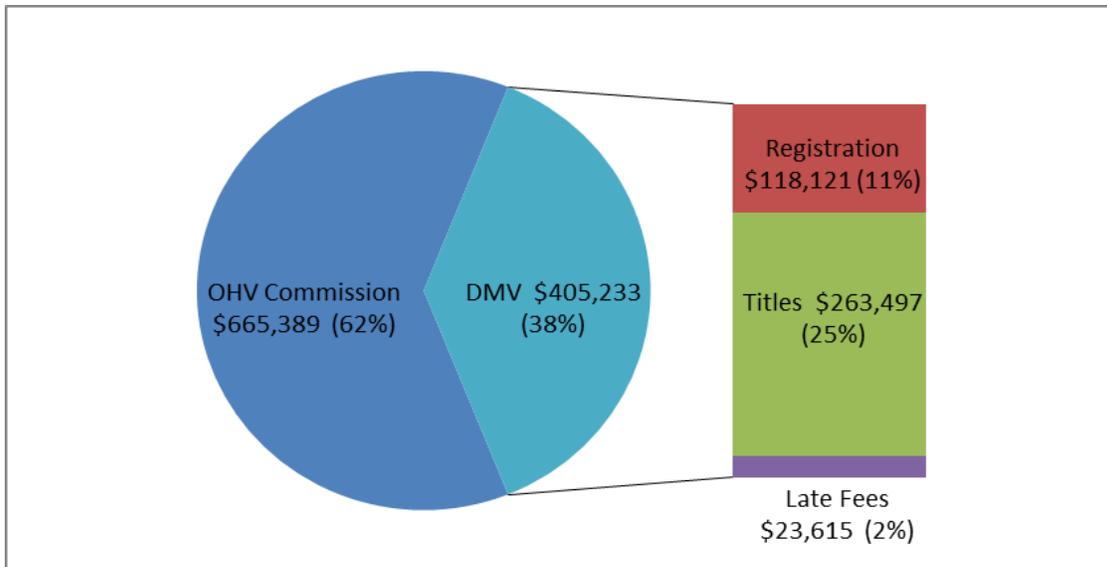


Source: Revenue data provided by DMV

Per statute, total revenues generated by OHV activities in fiscal year 2014 were allocated as shown in Exhibit IV.

Exhibit IV

OHV Fee Distribution for Fiscal Year 2014



Source: Revenue data provided by DMV

The commission administers the Account for Off-Highway Vehicles, which is a non-executive budget account from which it pays administrative costs and grants out funds as prescribed in statute. NRS 490 requires the OHV fund balance as of January 1 of each year to be used as follows:

- Projects (60 percent);
- Enforcement (20 percent);
- Education (15 percent); and,
- Administration (5 percent).

Allow DMV to Transfer OHV Program Revenues

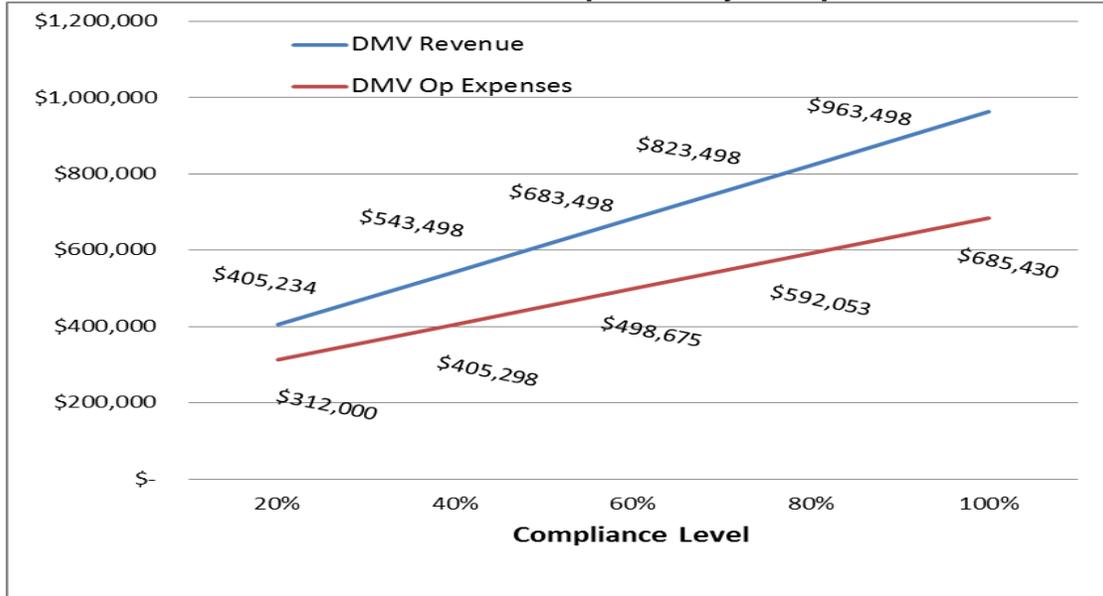
Studies cited in support of OHV legislation estimated the number of OHVs owned by Nevada residents to be between 200,000 and 425,000. Approximately 40,000 OHVs are currently registered in Nevada. If we assume 200,000 OHVs to represent 100 percent compliance with registration requirements, our current 40,000 registered OHVs represent approximately twenty percent compliance. At this level of compliance, funds available to DMV exceed its OHV program administrative expenses by almost \$100,000 based on fiscal year 2014 data. As much of DMV's OHV program administrative expenses are fixed, expenses are not expected to increase proportionally as compliance levels increase. This creates a widening gap between program revenue and administrative expenses.

Per statute, funds in DMV's OHV operating account may only be used for paying administrative expenses related to titling and registration of OHVs. Any money remaining in the account is carried forward to the next fiscal year. This creates a reserve of idle OHV funds not permitted by statute to be used for any other purpose, including OHV projects.

Using fiscal year 2014 revenue and expense data, we projected DMV's program revenue and administrative expenses at various compliance levels. See Exhibit V.

Exhibit V

DMV Estimated Revenue and Expenses by Compliance Level

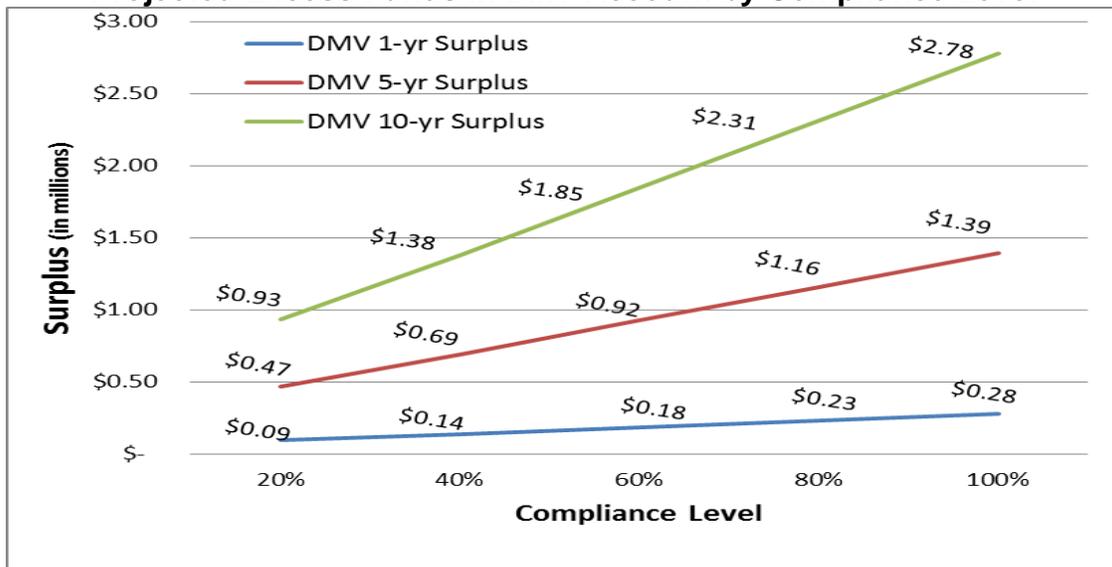


Note: Revenue projections assume no growth in title revenue and 2 percent late registrations. Expense projections assume no growth in fixed costs and a variable cost of \$2.33 per registration.

The amount of idle funds can be significant even at the current level of compliance, and more so at higher levels of compliance. Over the long term at higher levels of compliance, the accumulated funds will almost match the commission’s annual apportionment. See Exhibit VI for estimated 1-year, 5-year, and 10-year surpluses at various compliance levels.

Exhibit VI

Projected Excess Funds in DMV Account by Compliance Level



Since these funds are not available for OHV projects, the commission should seek legislation to change the current funding structure that would allow DMV to cover its expenses and transfer remaining funds to the commission for OHV projects. We estimate this should benefit the commission by up to \$2.78 million over ten years.

Share Program Revenue and Expense Data

The commission should coordinate with DMV to obtain program revenue and expense data in order to verify the accuracy of their revenue allocation. Program revenue and expense data are not currently shared with the commission; therefore, the commission cannot verify the accuracy of the amounts received. Coordination with DMV to share revenue and expense data would increase transparency and validate the accuracy of the amounts received.

Recommendations

1. Consider seeking legislation that would allow DMV to transfer to the commission all OHV program revenue in excess of its expenses.
2. Consider coordinating with DMV to obtain program revenue and expense data.

Exhibit VII

Estimated Benefits

Recommendation	Benefit
1. DMV transferring to the commission all OHV program revenue in excess of its expenses.	\$90,000 - \$278,000 per year
2. Coordinating with DMV to obtain program revenue and expense data	Transparency
Total	\$90,000 - \$278,000 per year

Can OHV Program Revenue be Increased?

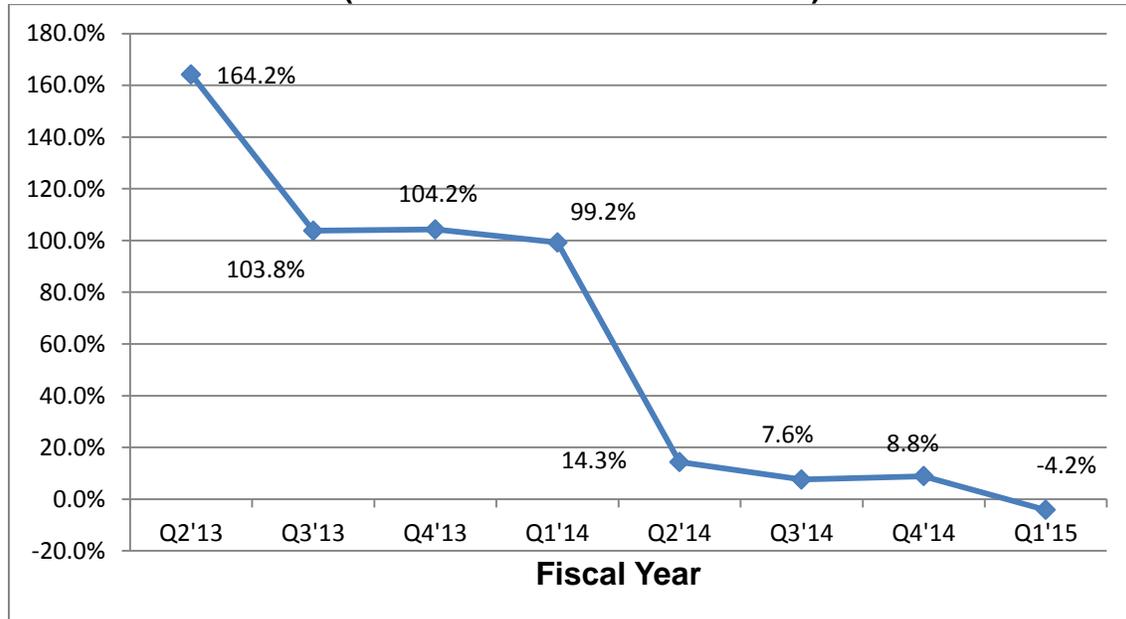
OHV program revenue can be increased by developing and implementing procedures to ensure funds are expended for OHV enforcement and public outreach, and requiring decals for out-of-state OHVs. This could benefit the commission by up to \$1.2 million in additional registration revenue, and up to \$144,000 in additional revenue from out-of-state decal sales. OHV program compliance is low and the growth rate of active registrations has become negative.

Ensure Funds are Expended for OHV Enforcement and Public Outreach

From July 2012 through June 2014, the program experienced growth in registrations, though at a declining rate. For the first time since the program began, the program experienced negative growth in active registrations¹ in the first quarter of fiscal year 2015. See Exhibit VIII.

Exhibit VIII

**Growth Rate of Active Registrations
(Quarter over Previous Quarter)**



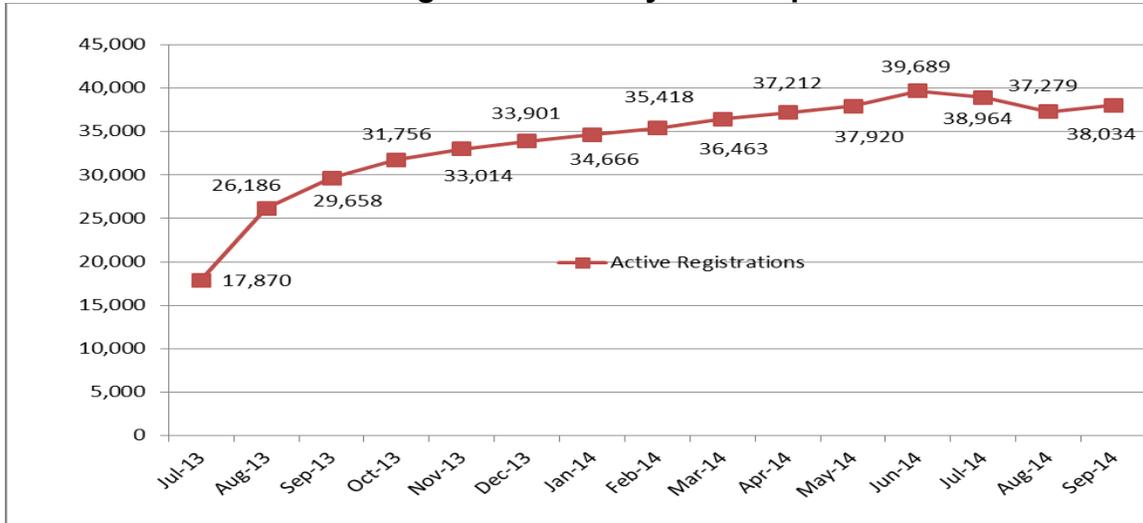
Source: Active Registration data provided by DMV

¹ Active registrations = Cumulative registrations since inception minus expired registrations.

In July 2014 active registrations declined as new registrations have not been sufficient to offset the decline in renewals. See Exhibit IX.

Exhibit IX

Active Registrations: July '13 – Sept. '14



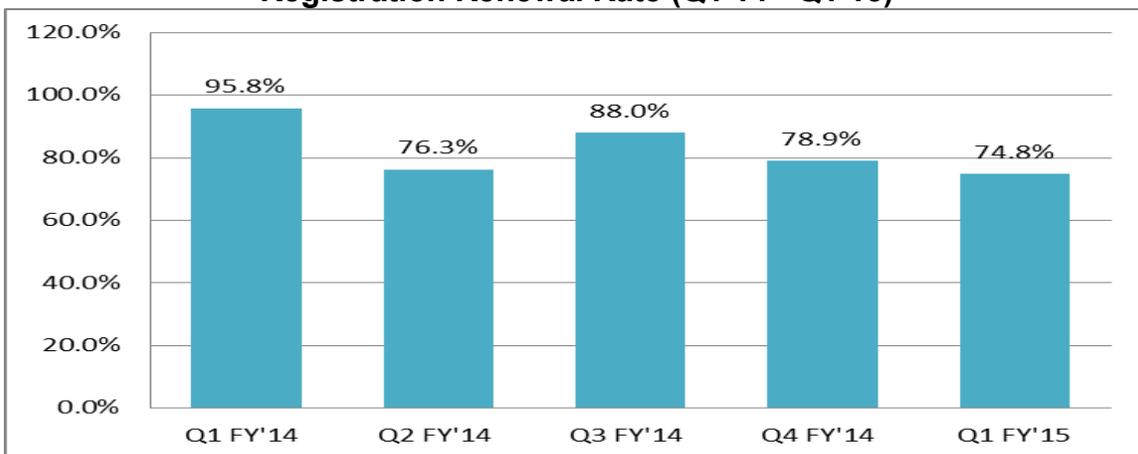
Source: Registration data provided by DMV

Registration Renewal Rates Have Declined

The renewal rate of active registrants is a key metric of enforcement and public outreach. As indicated earlier, fiscal year 2013 was the first year of the program so renewals were not due until first quarter 2014. A comparison of registration renewal rates for first quarter 2014 through first quarter 2015 shows a significant drop of approximately 22 percent over this period. Renewal rates for each quarter since renewals were due are shown in Exhibit X.

Exhibit X

Registration Renewal Rate (Q1'14 - Q1'15)



Source: Registration renewal data provided by DMV

The decline in renewals is attributable to - lack of enforcement efforts and inadequate public outreach. The commission is required to issue grants for enforcement and public outreach. However, the commission has not established regulations for administering grants and no funds have been granted. Consequently, much of the OHV public is either unaware of the OHV titling and registration requirements or unconcerned with compliance as enforcement efforts are currently nonexistent.

We surveyed ten western states, all of which have long standing OHV programs. Officials in these states uniformly cite enforcement and public outreach as critical to program compliance, especially in the early stages. Compliance is critical to generating necessary program funds; therefore, enforcement and public outreach must be prioritized to ensure program growth.

At the start of the program, about \$88,000 was spent on public outreach which generated approximately 40,000 OHV registrations. Assuming 200,000 OHVs in Nevada, this represents 20 percent compliance. No additional public outreach funds have been spent since this initial outlay from DMV in fiscal year 2013. Beginning on January 1, 2015, approximately \$150,000² will be available for public outreach. We estimate 35 percent increase in compliance as a result of spending \$150,000 for public outreach resulting in an overall 55 percent compliance level.³ Based on the current allocation of revenues associated with the OHV program, funds available to the commission at various compliance levels are shown in Exhibit XI:

Exhibit XI

OHV Commission Revenue by Compliance Level

Compliance Level	20%	40%	55%	60%	80%	100%
Number of Registrations	40,000	80,000	110,000	120,000	160,000	200,000
Registration fee Revenue	\$800,000 ⁴	\$1,600,000	\$2,200,000	\$2,400,000	\$3,200,000	\$4.0 million
OHV Commission Revenue	\$680,000 ⁵	\$1,360,000	\$1,870,000	\$2,040,000	\$2,720,000	\$3.4 million

² \$150,000 represents 15 percent of the estimated \$1 million Account for Off-Highway Vehicles balance on January 1, 2015.

³ Initial public outreach expenditure = \$88,000 divided by 40,000 registrations over first two years = \$2.2 per new registration. \$150,000 expenditure in 2015 divided by \$2.2 per new registration would potentially yield \$68,000 additional registrations for a total of 108,000 registrations, or 55 percent compliance level. \$1,870,000 (estimated OHV Commission revenue at 55 percent compliance) minus \$680,000 (estimated OHV Commission revenue at 20 percent compliance) = \$1,190,000.

⁴ \$800,000 = \$20 x 40,000

⁵ \$680,000 = \$800,000 x 85 percent (commission's current share)

In addition, approximately \$200,000⁶ will be available for enforcement efforts on January 1, 2015. The impact of the enforcement efforts cannot currently be quantified as no historical data exists for quantification.

Require Decals for Out-of-State OHVs

The commission should consider a program where decals are required for out-of-state OHVs located in Nevada for more than 15 days or not registered in another state. Implementing this program could provide additional revenue of approximately \$144,000 while allowing these users a means to participate in Nevada's OHV recreational opportunities.

Nevada's statute does not require registration if the OHV is registered in another state and located in Nevada less than 15 days. Additionally, the statute has no provisions to accommodate out-of-state riders who are in Nevada longer than 15 days or are not registered in another state.

Based on our survey, states vary as to how they regulate out-of-state OHVs. For example, some states require an additional decal even if the OHV is registered in the home state while some require an additional decal only if the OHV is not currently registered in the home state. See Exhibit XII.

⁶ \$200,000 represents 20 percent of the estimated \$1 million Account for Off-Highway Vehicles balance on January 1, 2015.

Exhibit XII

Surveyed States Title, Registration, and Decal Requirements

	OHV Title Required	OHV Registration Required	Reciprocity with Nevada	Out-of-State (OoS) Decals Required
Arizona	Yes	Yes - annually (\$25 decal)	Yes	OHV decal (\$25) required for OoS OHVs not registered and titled in home state or in Arizona more than 30 days.
California	Yes	Yes - biennially (\$52)	Yes	Non-resident permit (\$30) required for OoS OHVs not registered in home state
Colorado	Yes ^a	Yes - annually (\$25.25)	No	All OoS riders must purchase a non-resident OHV permit (\$25.25) or (\$30.25 for snowmobile)
Idaho	Yes	Yes - annually (\$12.50)	Yes	Required for OoS OHVs not registered in a reciprocal state or residents of a non-reciprocal states (\$12.50)
Montana	Yes	Yes - Once (\$5)	Yes	Required for OoS OHVs not registered in the home state (\$5) . Good for 30 days.
Nevada	Yes	Yes - annually (\$20)	NA	No decals options for OoS OHVs not registered in another state or located in Nevada for more than 15 days.
New Mexico	Yes	Yes - biennially (\$50)	Yes	Required for OoS OHVs not permitted or registered in a reciprocal state or residents of non-reciprocal states (\$18 - 90 days, \$48 - 2 years)
Oregon	No ^b	Yes - biennially (\$10 permit)	Yes	OHV permit (\$10) required for OoS OHVs not registered in a reciprocal state or residents of non-reciprocal states
Utah	Yes	Yes - annually (\$21)	Yes	All OoS riders must purchase OoS permit (\$30). Fee waived if currently registered in a reciprocal state.
Washington	Yes	Yes - Annually (\$25)	Yes	OHV permit (\$30) required for OoS OHVs not registered in a reciprocal state or residents of non-reciprocal states
Wyoming	Yes	Yes - annually (\$15 permit)	No	OHV permit (\$15) required for all OoS OHV

Note a: Colorado - title is optional for private party sales

Note b: Oregon - snowmobiles require title & registration

Out-of-state decals may be sold through various retail outlets. Most of the surveyed states' out-of-state decal programs are operated similar to Nevada's fishing licenses, whereby licensed vendors (retailers) maintain a stock of decals and remit collected fees on a monthly basis, minus a nominal agent fee.

Three of the states in our survey provided data on their yearly out-of-state decal sales as follows: California - 28,000, Idaho - 14,000 and New Mexico - 3,000. A former OHV commissioner estimated Nevada's out-of-state decal sales could be approximately 10,000 annually. Based on responses from the other states, this number appears reasonable. Selling 10,000 decals could generate approximately \$200,000 if sold at the resident registration rate of \$20. Assuming current DMV's OHV administrative expenses of 28 percent, this would yield approximately \$144,000 annually in additional revenue. Moreover, it would allow visiting OHV riders a means to contribute to the program that promotes the recreational use of OHVs in Nevada.

Recommendations

3. Consider developing and implementing procedures to ensure funds are expended for OHV enforcement and public outreach.
4. Consider implementing a program where decals are required for out-of-state OHVs located in Nevada for more than 15 days or not registered in another state.

Exhibit XIII

Estimated Benefits

Recommendation	Benefit
3. Ensuring funds are expended for OHV enforcement and public outreach.	\$1,190,000
4. Implementing a program where decals are required for out-of-state OHVs located in Nevada for more than 15 days or not registered in another state.	\$144,000
Total	\$1,334,000

Should the Commission be Hosted by a State Agency?

The commission should consider seeking legislation allowing it to be hosted by a state agency. The benefits of being hosted by a state agency include: agency administrative support, fiscal transparency, grants monitoring and oversight, and the agency's internal control policies and procedures.

Seek Legislation to be Hosted by a State Agency

The commission was established as an independent body with no administrative or budgetary support from an executive branch agency. The commission is still trying to establish administrative and oversight policies and procedures that already exist in state agencies. The delay in establishing policies and procedures has hindered the progress of the commission's mission to create and promote the responsible use of recreational OHVs.

We surveyed ten western states, all of which have long standing OHV programs similar in nature to the fee-supported structure of the Nevada program. In these states, the OHV programs are hosted by state agencies. The host agency provides the necessary administrative and procedural oversight. See Exhibit XIV.

Exhibit XIV

OHV Program Structure of Surveyed States

	Year Began	OHV Commission	Commission Advisory	Hosted by Agency
Arizona	1993	Yes	Yes	State Parks
California	1971	Yes	Yes	State Parks
Colorado	1990	Yes	Yes	Parks and Wildlife
Idaho	1979	No	Not Applicable	Parks and Recreation
Montana	1987	Yes	Yes	Fish, Wildlife and Parks
New Mexico	2006	Yes	Yes	Game and Fish
Nevada	2011	Yes	No	No
Oregon	2000	No	Not Applicable	Parks and Recreation
Utah	1972	Yes	Yes	Parks and Recreation
Washington	1978	Yes	Yes	Recreation and Conservation
Wyoming	2002	No	Not Applicable	Parks and Cultural Resources

As shown in Exhibit XIV, of the ten surveyed states, three do not have OHV commissions and the remaining seven have OHV commissions that act in an advisory capacity. In some cases, the advisory responsibilities are broad and may include setting regulation, while in others the advisory responsibilities are

narrow and are limited to grant scoring and grant recommendations. Only Nevada has an independent OHV commission not hosted by a state agency.

Grant Functions Are Not Segregated

Per statute, all grant functions are performed by the Nevada Commission on Off-Highway Vehicles. In surveyed states, the grant functions are controlled by the host agency and the advisory commission/board using procedures that provide segregation of functions. See Exhibit XV.

Exhibit XV

Segregated Functions of Surveyed States

	Grant Applicant Scored by	Grant Applicant Approved by	Grant Applicant Monitored by
Arizona	OHV Advisory Group	State Parks Board	Agency Grant Program Staff
California	OHV Advisory Commission	Director of Cal. State Parks	Agency Grant Program Staff
Colorado	Trails Advisory Committee	Parks & Wildlife Commission	Agency Grant Program Staff
Idaho	Citizens Advisory Committee	Different Committee Members	Agency Grant Program Staff
Montana	OHV Advisory Committee	Montana State Parks	Agency Grant Program Staff
New Mexico	Advisory Board + Panel from Host Agency	Different Committee Members	Agency Grant Program Staff
Nevada	OHV Commission	OHV Commission	OHV Commission
Oregon	Grant Review Committee + Agency Personnel	Parks & Recs Commission	Agency Grant Program Staff
Utah	Advisory Council	State Parks Board	Agency Grant Program Staff
Washington	Advisory Committee	Recreation & Conservation Funding Board	Agency Grant Program Staff
Wyoming	Advisory Council + Trails Program Staff	Scoring Group + Additional Persons	Agency Grant Program Staff

As illustrated in Exhibit XV, grant functions are segregated between the agency and the commission to ensure the process is fair. The segregation of functions assures checks and balances within the process. Per statute, all of these functions are required to be performed by the Nevada Commission on Off-Highway Vehicles; therefore, no segregation of functions exists to ensure the process is fair and provide checks and balances.

Seek Other Funding Sources

The commission should consider seeking other funding sources to defray the cost of being hosted by an agency. Obtaining these other funds will help the hosting agency absorb the cost associated with the program.

We contacted 2 State of Nevada agencies⁷ regarding the hosting of the OHV program. These agencies expressed concerns about their ability to absorb the costs associated with the program.

We surveyed other states regarding additional funding sources for their OHV programs. Some of the states surveyed use federal Recreational Trails Program (RTP) funds. In Nevada, the Division of State Parks receives approximately \$1.5 million of RTP funds, 30 percent of which is designated for OHV projects. Currently, there is no coordination between the commission and State Parks as to how these funds are expended. Five of the surveyed states use RTP funds for OHV projects.

In addition, 8 of the ten states surveyed supplement OHV program funding with an allocation of fuel tax dollars. The amount of fuel tax dollars allocated to the OHV programs is based on studies which estimate the amount of fuel consumed by OHVs statewide, which ultimately contributes to the their state’s highway funds. The additional funding helps support the administrative oversight needed to ensure proper handling of OHV funds. See Exhibit XVI.

Exhibit XVI

Funding Sources for OHV Programs

	Title & Registration Fees	Recreational Trails Program Funds (Federal RTP)	State Fuel Tax Funding
Arizona	Yes	Yes	Yes
California	Yes	No	Yes
Colorado	Yes	No	No
Idaho	Yes	Yes	Yes
Montana	Yes	Yes	Yes
New Mexico	Yes	No	No
Nevada	Yes	No	No
Oregon	Yes	No	Yes
Utah	Yes	Yes	Yes
Washington	Yes	No	Yes
Wyoming	Yes	Yes	Yes

The OHV program could benefit from being hosted by a state agency as the agency will provide the necessary administrative support to help accomplish the commission’s mission. Additionally, seeking additional funding sources will help defray the costs of the host agency and ensure the continued viability of the OHV program.

⁷ Nevada Division of State Parks and Nevada Department of Wildlife

Recommendations

5. Consider seeking legislation to have the commission hosted by a state agency.
6. Consider seeking other funding sources to defray the cost of the host agency.

Exhibit XVII

Estimated Benefits

Recommendation	Benefit
5. The commission being hosted by a state agency with a similar mission.	Access to established internal controls, and administrative and budgetary support
6. Seeking other funding sources to defray the cost of the host agency.	Dedicated funding to ensure adequate program oversight

Appendix A

OHV Commission Response and Implementation Plan

From: gregory mckay <greg.e.mckay@gmail.com>
Sent: Wednesday, November 19, 2014 1:23 PM
To: Jeff Landerfelt
Subject: Response to Off-Highway Vehicle Audit report

As Chairman of the Nevada Commission on Off-Highway Vehicles (NCOHV), I accept the audit report and the recommendations contained within. The NCOHV, as a body, will discuss the audit recommendations at its next meeting. Once the NCOHV has deliberated the audit report recommendations an implementation plan will be provided to the Division of Internal Audits.

Thanks,

Greg McKay
Chairman – NCOHV