Nevada Commission On Off-Highway Vehicles

6015 South Virginia St., Suite E, Box 163

Reno, Nevada 89502

**To**: Steve Weinberger, Administrator

 State Of Nevada

 Department of Administration

 Division of Internal Audits

**From**: Greg McKay

 Chairman

 Nevada Commission on Off- Highway Vehicles

**Date**: April 22, 2015

**Subject**: Draft Report on Status of Audit Recommendations from the Commission on Off-Highway Vehicles

 The Nevada Commission on Off-Highway Vehicles (Commission) is submitting this Follow-up report on the status of the recommendations presented in the December 10, 2014 Executive Branch Audit Committee meeting. This will describe the actions taken by the Commission to implement those recommendations. Below we will list the recommendations as either fully implemented, partially implemented, or no action with backup explanation and/or documentation.

**Recommendations**

1. **Consider seeking legislation that would allow DMV to transfer to the Commission all OHV program revenue in excess of its expenses**.

**Status: Partially Implemented**

**Estimated completion date: July 2015**

The Commission was made aware of Senate Bill 492 that was submitted by the Department of Motor Vehicles (DMV). A copy of Senate Bill 492 labeled “Attachment A” (pages 6-9) is attached for your reference.

**Sec. 4.** NRS 490.085 is hereby amended to read as follows:

490.085 1. The Revolving Account for the Administration of

 Off-Highway Vehicle Titling and Registration is hereby created in

 the State Highway Fund.

 2. **[**The**] *Except as otherwise provided in subsection 3, the***

 Department shall use the money in the Account to pay the expenses

 of administering the provisions of this chapter relating to the titling

 and registration of off-highway vehicles.

 3. **[**Money in the Account must be used only for the purposes

 specified in subsection 2.**] *At least once each fiscal quarter, the***

 ***Department shall transfer any amount in excess of $150,000 in the***

 ***Revolving Account for the Administration of Off-Highway Vehicle***

 ***Titling and Registration into the Account for Off-Highway***

 ***Vehicles created by NRS 490.069.***

 4. Any money remaining in the ***Revolving*** Account ***for the***

 ***Administration of Off-Highway Vehicle Titling and Registration*** at

 the end of a fiscal year does not revert to the State Highway Fund,

 and the balance in the Account must be carried forward to the next

 fiscal year.

**Sec. 5.** This act becomes effective on July 1, 2015.

 The Commission has had several conversations with DMV staff and their personnel have been present at Commission meeting explaining this legislation. The Commission voted to support this recommendation. Section 4 of this bill requires the Department, at least once a quarter, to transfer any amount in excess of $150,000 from the Revolving Account into the Account for Off-Highway vehicles for use by the Commission.

The Commission Chairman testified in support of this bill on March 24, 2015. “Attachment B” (pages 10-11) is attached for your reference for testimony related to supporting this legislation. We will follow the bill thru the Legislature to express our support when necessary and hope the Legislature passes SB 492 this session.

1. **Consider coordinating with the DMV to obtain better program revenue and expense data.**

**Status: Fully implemented**

**Estimated completion date: April 2015**

The Commission has worked closely with both the Division of Internal Audits and the DMV to come up with a format that more clearly represents the revenues and expenses that the DMV reports each month (and year–to-date) to the Commission. This report also more clearly identifies the DMV expenses related to IT/Programming, Salaries, and Operating Expenses. This report has been agreed to be furnished to the Commission on the first Monday of each month for consistency. “Attachment C” (page 12) is provided for your reference as the monthly report format.

1. **Consider developing and implementing procedures to ensure funds are expended for OHV enforcement and public outreach.**

**Status: Partially implemented**

**Estimated completion date: OHV Enforcement-July 2015**

 **Public Outreach- August 2015**

The Commission, with assistance from our Deputy Attorney General, Raelene Palmer, Sheila Lambert, from the Department of Administration, Chief of Grant Management, and Charise Whitt from the Office of Criminal Justice Assistance have been going thru the process of developing and implementing procedures to allow funding the OHV Enforcement awards for the years of 2014 and 2015. The Office of Criminal Justice Assistance has put out their request for grant applications to the Law enforcement Community. We have received information that nine Law Enforcement Agencies have submitted requests totaling $216,681. We have calculated that the funds available for Law Enforcement Awards are $269,877. We expect the recommendations for Grant Awards from the Office of Criminal Justice Assistance in May and we expect to act on them at our May meeting. The Commission expects to fund these awards by the end of this fiscal year. The State Grants Office has offered to do the grant processing phase for the Commission so this process can move forward without delay.

For public education/ outreach the Commission has submitted our last changes to our Draft Regulations to the Legislative Counsel Bureau (LCB) on March 13, 2015. This was after substantial Commissioner input, Public Comment, Deputy Attorney General input, and State Grant Office input. We feel we have submitted substantial improvements to the process. When we receive these regulations back from the LCB we will schedule our Public Adoption hearing and probable Commission approval. This will give us temporary authority to expend funds for public outreach and other grant categories.

We have also been working closely with the Department of Administration, Chief of Grant Management, who have taken our draft Grant Guidebook and Application and have made many changes to the process that more accurately reflects current accepted practices for guidelines, the process of application and review, a more transparent and thorough award process that reflects both the NRS Statutes and Federal requirements. This is all done while ensuring the Commission has the authority to develop the Grant Guidelines, to score the grants individually, and to be able to decide whether or not to fund the grant applications. We are meeting April 30, 2015 to discuss the grant guideline criteria, the score sheets, and our guidelines for the Public Education/Outreach grant applications.

We anticipate with the return of our draft regulations by the Legislative Counsel Bureau that we will be able to get them approved and that our Grant Guidelines, Application packet and process will be ready within a few months. We anticipate being able to advertise for grant proposals sometime this summer.

1. **Consider implementing a program where decals are required for out-of-state OHV’s located in Nevada for more than 15 days or not registered in another state**

**Status: No Action**

**Estimated completion date: Unknown**

The Commission and the DMV have both discussed this recommendation .The DMV has communicated that they are not set up to administer this type of “retail” operation that other states have used. The Commission will discuss, hopefully in May, of our options concerning the issuance of out-of-state decals and its potential income for the Commission and begin researching the:

1. Other states methods of operation, and;
2. Expense of creating this program and potential income;
3. The logistical requirements;
4. The option of a private vendor to manage the program or the Commission managing it itself
5. Whether legislation is needed next session or Commission policy can achieve this goal.
6. **Consider seeking legislation to have the commission hosted by a state agency**

**Status: No action**

**Estimated completion date: Unknown**

The Commission has had several discussion with Eric Johnson, Administrator of Nevada State Parks. The audit considered Nevada State Parks and the Nevada Division of Wildlife as the best candidates. The Nevada Division of Wildlife cited concerns over their current funding structure and how the OHV Commission might fit into that.

Nevada State Parks had some operational advantages. It already administers an OHV Grant Program known as the “Roads to Trails Program (“RTP”) that is funded by Federal Highway funds. It has experience with the grant process from start to finish and could be a good partner with the Commission.

The Commission had analyzed the option of Nevada State Parks (“NSP”) with supplying the Executive Secretary and her related duties, in addition to furnishing the work necessary with processing the grants after the Commission votes on them. I had discussions with Eric Johnson, Administrator of NSP, along with several of his key staff.

Current workload and staff unavailability at State Parks would require the hiring of one full-time position requiring about $100,000 for salary and benefits.

The Commission at this time does not have sufficient funding to pay for this position. While we might have the cash, we are statutorily limited to 5% for administrative expenses. We are unclear if we could award a grant to NSP for outreach and if that would violate our 5% cap on expenses. A part-time position might be affordable after January 1, 2016 if our registration numbers increase substantially.

Our Commission has expressed serious concerns that this arrangement may jeopardize our independence and have voted to oppose the state agency host at this time. I have been instructed to bring back more details to the Commission before we consider this item again.

1. **Consider seeking other funding sources to defray the costs of the host agency.**

**Status: No Action**

**Estimated completion date: Unknown**

The audit analyzed other State OHV Program’s and found that a majority of states funded part of their program’s by a percentage of the State’s Gas Tax money. Currently, a portion of the State Gas Tax Proceeds are shared by the Nevada Division of Wildlife and Nevada State Parks. This has been the standard for many years. Initial discussions have not been met by much enthusiasm by these agencies as that funding has been used to fund vital programs for those departments.

The Chairman has also been advised that any discussion of sharing any portion of the State Gas Tax proceeds is a contentious issue with funding of many state highway projects at an acute phase. We are open to a future discussion or study of how these taxes could be distributed to the OHV Commission and how other states have handled this issue. This might be better served after this Legislative session ends.

The Commission has researched grant availability with Equipment Manufacturers and the National Off-Highway Vehicle Association and have found the availability severely limited. We will continue to seek other funding sources

In closing we hope that this has been helpful in determining the actions the Commission has taken to implement your audit recommendations. If you have any questions, please don’t hesitate to contact me.

Sincerely,

Greg McKay

Greg.e.mckay@gmail.com

775-690-3096

**ATTACHMENT A**

**Pages 6 thru 9**

REQUIRES TWO-THIRDS MAJORITY VOTE (§ 2)

**S.B. 492**

- \*SB492\*

SENATE BILL NO. 492–COMMITTEE ON FINANCE

(ON BEHALF OF THE DEPARTMENT OF ADMINISTRATION)

MARCH 23, 2015

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Referred to Committee on Transportation

SUMMARY—Revises provisions governing the financial

administration of off-highway vehicle titling and

registration. (BDR 43-1175)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: Executive Budget.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets **[**omitted material**]** is material to be omitted.

AN ACT relating to off-highway vehicles; providing a fee for the

issuance of special plates to certain off-highway vehicle

dealers, lessors and manufacturers by the Department of

Motor Vehicles; revising provisions relating to fees

collected by the Department for the titling and registration

of off-highway vehicles; and providing other matters

properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law requires the registration of certain off-highway vehicles. (NRS

2 490.082) Existing law also requires the Department of Motor Vehicles to issue to

3 an off-highway vehicle dealer, long-term or short-term lessor or manufacturer a

4 special plate, commonly known as a dealer plate, for use on certain off-highway

5 vehicles for the purposes of display, demonstration, maintenance, sale or exchange.

6 (NRS 490.0827, 490.125) **Section 2** of this bill requires the Department to charge a

7 fee of $12 for such a special plate, and authorizes the Department to only issue such

8 a special plate upon a request from an off-highway vehicle dealer, long-term or

9 short-term lessor or manufacturer. The money collected by the Department for such

10 special plates must be deposited into the State Highway Fund.

11 Existing law requires the Department to deposit the fees collected for issuing a

12 certificate of title for an off-highway vehicle into the Revolving Account for the

13 Administration of Off-Highway Vehicle Titling and Registration. (NRS 490.084)

14 Money in the Account must be used to pay the expenses of administering the titling

15 and registration of off-highway vehicles. (NRS 490.085) Fees collected for the

16 annual registration of an off-highway vehicle must be distributed as follows: (1)

17 fifteen percent must be deposited in the Revolving Account for the Administration

18 of Off-Highway Vehicle Titling and Registration; and (2) to the extent that any

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19 portion of the fee for registration is not for the operation of the off-highway vehicle

20 on a highway, 85 percent must be deposited into the Account for Off-Highway

21 Vehicles. Fees in the latter Account may be used by the Commission on Off-

22 Highway Vehicles for certain administrative costs and to award grants for certain

23 purposes related to off-highway vehicles. (NRS 490.069) **Section 3** of this bill

24 requires that all the money collected by the Department for titling and registration

25 must be deposited in the Revolving Account for the Administration of Off-

26 Highway Vehicle Titling and Registration. **Section 4** of this bill requires the

27 Department, at least once each fiscal quarter, to transfer any amount in excess of

28 $150,000 from the Revolving Account into the Account for Off-Highway Vehicles

29 for use by the Commission.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 490.070 is hereby amended to read as follows:

2 490.070 1. Upon the request of an off-highway vehicle

3 dealer, the Department may authorize the off-highway vehicle

4 dealer to receive and submit to the Department applications for the:

5 (a) Issuance of certificates of title and registration for off6

highway vehicles; and

7 (b) Renewal of registration for off-highway vehicles.

8 2. An authorized dealer shall:

9 (a) Except as otherwise provided in **[**paragraph (b) and**]**

10 subsection 4, submit to the State Treasurer for allocation to the

11 Department **[**or to the Account for Off-Highway Vehicles created by

12 NRS 490.069**]** all fees collected by the authorized dealer from each

13 applicant and properly account for those fees each month;

14 (b) **[**Submit to the State Treasurer for deposit into the Account

15 for Off-Highway Vehicles all fees charged and collected and

16 required to be deposited in the Account pursuant to NRS 490.084;

17 (c)**]** Comply with the regulations adopted pursuant to subsection

18 5; and

19 **[**(d)**] *(c)*** Bear any cost of equipment which is required to

20 receive and submit to the Department the applications described in

21 subsection 1, including any computer software or hardware.

22 3. Except as otherwise provided in subsection 4, an authorized

23 dealer is not entitled to receive compensation for the performance of

24 any services pursuant to this section.

25 4. An authorized dealer may charge and collect a fee of not

26 more than $2 for each application for a certificate of title or

27 registration received by the authorized dealer pursuant to this

28 section. An authorized dealer may retain any fee collected by the

29 authorized dealer pursuant to this subsection.

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1 5. The Department shall adopt regulations to carry out the

2 provisions of this section. The regulations must include, without

3 limitation, provisions for:

4 (a) The expedient and secure issuance of:

5 (1) Forms for applying for the issuance of certificates of title

6 for, or registration of, off-highway vehicles;

7 (2) Certificates of title and registration by the Department to

8 each applicant whose application is approved by the Department;

9 and

10 (3) Renewal notices for registrations before the date of

11 expiration of the registrations;

12 (b) The renewal of registrations by mail or the Internet;

13 (c) The collection of a fee of not less than $20 or more than $30

14 for the renewal of a registration of an off-highway vehicle pursuant

15 to NRS 490.082 or 490.0825;

16 (d) The submission by mail or electronic transmission to the

17 Department of an application for:

18 (1) The issuance of a certificate of title for, or registration of,

19 an off-highway vehicle; or

20 (2) The renewal of registration of an off-highway vehicle;

21 (e) The replacement of a lost, damaged or destroyed certificate

22 of title or registration certificate, sticker or decal; and

23 (f) The revocation of the authorization granted to a dealer

24 pursuant to subsection 1 if the authorized dealer fails to comply with

25 the regulations.

26 **Sec. 2.** NRS 490.0827 is hereby amended to read as follows:

27 490.0827 1. Upon issuance of an off-highway vehicle

28 dealer’s, long-term or short-term lessor’s or manufacturer’s license

29 certificate pursuant to NRS 490.200 or upon the renewal of the

30 license pursuant to NRS 490.210, ***the off-highway dealer, long***31

***term or short-term lessor or manufacturer may request from*** the

32 Department **[**shall furnish to the off-highway vehicle dealer, long33

term or short-term lessor or manufacturer**]** one or more special

34 plates for use on an off-highway vehicle specified in subsection 1 of

35 NRS 490.125. Each plate must have displayed upon it the

36 identification number assigned by the Department to the off37

highway vehicle dealer, long-term or short-term lessor or

38 manufacturer, and may include a different letter or symbol on the

39 plate. The off-highway vehicle dealer’s, long-term or short-term

40 lessor’s or manufacturer’s special plates may be used

41 interchangeably on that off-highway vehicle.

42 2. The Department ***, upon a request pursuant to subsection 1,***

43 shall issue to each off-highway vehicle dealer, long-term or short44

term lessor or manufacturer a reasonable number of special plates.

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1 ***3. The Department shall charge an annual fee of $12 for***

2 ***each special plate issued pursuant to this section.***

3 ***4. Money received by the Department pursuant to subsection***

4 ***3 must be deposited in the State Highway Fund.***

5 **Sec. 3.** NRS 490.084 is hereby amended to read as follows:

6 490.084 1. The Department shall determine the fee for

7 issuing a certificate of title for an off-highway vehicle, but such fee

8 must not exceed the fee imposed for issuing a certificate of title

9 pursuant to NRS 482.429. Money received from the payment of the

10 fees described in this subsection must be deposited with the State

11 Treasurer for credit to the Revolving Account for the Administration

12 of Off-Highway Vehicle Titling and Registration created by

13 NRS 490.085.

14 2. The Commission shall determine the fee for the annual

15 registration of an off-highway vehicle pursuant to NRS 490.082 or

16 490.0825, but such fee must not be less than $20 or more than $30.

17 Money received from the payment of the fees described in this

18 subsection must be **[**distributed as follows:

19 (a) During the period beginning on July 1, 2012, and ending on

20 June 30, 2013:

21 (1) Eighty-five percent must be**]** deposited with the State

22 Treasurer for credit to the Revolving Account for the Administration

23 of Off-Highway Vehicle Titling and Registration created by

24 NRS 490.085.

25 **[**(2) To the extent that any portion of the fee for registration

26 is not for the operation of the off-highway vehicle on a highway, 15

27 percent must be deposited into the Account for Off-Highway

28 Vehicles created by NRS 490.069.

29 (b) On or after July 1, 2013:

30 (1) Fifteen percent must be deposited with the State

31 Treasurer for credit to the Revolving Account for the Administration

32 of Off-Highway Vehicle Titling and Registration created by

33 NRS 490.085.

34 (2) To the extent that any portion of the fee for registration is

35 not for the operation of the off-highway vehicle on a highway, 85

36 percent must be deposited into the Account for Off-Highway

37 Vehicles.**]**

38 **Sec. 4.** NRS 490.085 is hereby amended to read as follows:

39 490.085 1. The Revolving Account for the Administration of

40 Off-Highway Vehicle Titling and Registration is hereby created in

41 the State Highway Fund.

42 2. **[**The**] *Except as otherwise provided in subsection 3, the***

43 Department shall use the money in the Account to pay the expenses

44 of administering the provisions of this chapter relating to the titling

45 and registration of off-highway vehicles.

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- \*SB492\*

1 3. **[**Money in the Account must be used only for the purposes

2 specified in subsection 2.**] *At least once each fiscal quarter, the***

3 ***Department shall transfer any amount in excess of $150,000 in the***

4 ***Revolving Account for the Administration of Off-Highway Vehicle***

5 ***Titling and Registration into the Account for Off-Highway***

6 ***Vehicles created by NRS 490.069.***

7 4. Any money remaining in the ***Revolving*** Account ***for the***

8 ***Administration of Off-Highway Vehicle Titling and Registration*** at

9 the end of a fiscal year does not revert to the State Highway Fund,

10 and the balance in the Account must be carried forward to the next

11 fiscal year.

12 **Sec. 5.** This act becomes effective on July 1, 2015.

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**ATTACHMENT B**

**Pages 10 thru 11**

Nevada Commission on Off Highway Vehicles March 30, 2015

1615 South Virginia Street, Suite E, Box 163

Reno, Nevada 89502

To: Senator Hammond

 Chairman

 Senate Transportation Committee

From: Greg McKay

 Chairman

 Nevada Commission on Off Highway Vehicles

Subject: Support for SB 492

Mr. Chairman:

The Nevada Commission on Off Highway Vehicles supports SB 492.

The State of Nevada, Department of Administration, Division of Internal Audits, completed Audit Report No.15-01 in December of 2014. The audit recommended that the Nevada Commission on Off Highway Vehicles (Commission) should revise the current funding structure to maximize funds for off-highway vehicle (OHV) projects by seeking legislation that would allow the Department of Motor Vehicles (DMV) to transfer program fees in excess of DMV Program administrative expenses to the Commission.

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

At the current level of compliance, funds available to the DMV exceed its OHV program administrative expenses by almost $100,000 based on fiscal 2014 data. As much of DMV’s OHV program administrative expenses are fixed, expenses are not expected to increase proportionally as compliance levels increase. Over the long term at higher levels of compliance, the accumulated funds will almost match the commission’s annual apportionment.

This is but one area where the Commission is working well with the DMV. The audit also recommended that the commission work with the DMV to obtain better program revenue and expense data in order to verify the accuracy of their revenue allocation for increased transparency .We have agreed on a system that will be provided to the Commission on the first Monday of each month.

The commission is also working with the DMV on how to administer program’s to make it easier for residents and out-of-state residents to obtain vehicle inspections and registration decals. We have found the DMV to be a good partner who is genuinely interested in our success.

Our commission is working hard and is close to meeting the program’s goals. We appreciate your support.

In closing, we strongly urge passage of SB 492.

Sincerely,

Greg McKay

Chairman

Nevada Commission on Off Highway Vehicles

greg.e.mckay@gmail.com

775-690-3096

**ATTACHMENT C Page 12**

|  |  |  |
| --- | --- | --- |
| DMV OHV Revenue and Expense Report 4-3-15 |  |  |
| **Revenues shown through 2-28-15** |  |  |  |
|  |  |  |  |
| OHV Revenues | NCOHV | DMV | Total |
| Registration Fee Original (85/15% alloc.) | $136,544.00 | $23,936.00 | $160,480.00 |
| Registration Fee Renewals (85/15% alloc.) | $315,197.85 | $55,483.15 | $370,681.00 |
| Replacement Decals (100% DMV) |  | $625.00 |  |
| Title Processing Fees (100% DMV) |  | $41,956.00 |  |
| Title Fees (100% DMV) |  | $106,380.00 |  |
| Title Fees Out-of-State (100% DMV) |  | $845.00 |  |
| VIN Assignment (100% DMV) |  | $166.00 |  |
| Late Registration Fees (100% DMV) |   | $72,250.00 |   |
| **Total OHV Revenues** | $451,741.85 | $301,641.15 | $753,383.00 |
|  |  |  |  |
| DMV Expenses |  |  |  |
| IT/Programming |  | $0.00 |  |
| Salaries thru 2-11-15 |  | $99,985.10 |  |
| Operating thru 2-27-15 |  | $64,969.01 | $164,954.11 |
|  |  |  |  |
| DMV Revenues less Expenses (Fund Accumu. DMV Account) |  | $136,687.04 |  |
|  |  |  |  |
| FY15 Registration counts: As of April 2, 2015  |  |  |  |
|  |  |  |  |
| OHV New Registration | 9437 |  |  |
| OHV Renewals | 21935 |  |  |
| OHV Duplicate Decals | 150 |  |  |
| OHV Titles Processed | 6237 |  |  |
|  |  |  |  |
| Phone calls Answered  | 12,152 |  |  |
| Mail Correspondence  | 2604 |  |  |
|  |  |  |  |
| Active OHV registration through March 2015 | 40,805 |  |  |
|  |  |  |  |