

Agenda Item Summary

BACKGROUND

The Landowner Preference (LOP) Program was first implemented by the Oregon Legislature in 1982. The original purpose was to:

1. Provide landowners with the opportunity to obtain controlled hunt tags for those species (deer and elk) that occur on their property.
2. Provide a form of non-monetary compensation for providing wildlife habitat.

Recommendations from a legislatively appointed Landowner Preference Task Force were presented to the Oregon Fish and Wildlife Commission (Commission) and the 1993 Legislative Assembly. Through those recommendations significant changes were made to the LOP process including; assisting landowners with wildlife damage problems, expanding the distribution of tags, expanding the availability of tags to include 1 for 2 tag exchanges for damage, and allowing the take of pronghorn antelope. The program has served as a form of mitigation for having wildlife on their property and has evolved into an additional program tool for addressing animal damage. During the 1995 Legislative Session, the Task Force recommended a number of changes to the LOP statutes resulting in ORS 496.146, Sec. 2. The 1995 Legislature also placed a sunset date of January 2, 2010 on the revised statute.

With the pending sunset to ORS 496.146, Sec. 2, the department decided it was the appropriate time to review the entire LOP Program. As a result, a review committee of represented affected stakeholders was created to discuss the LOP program and recommend internal, rule and legislative changes.

Implementing these recommendations will increase flexibility for landowners and hunters who benefit from the LOP Program by allowing additional opportunity to access private property and harvest deer, elk and pronghorn antelope.

The final meeting ended with three recommended changes in the LOP Administrative Rules (Chapter 635, Division 075) and four Legislative Concepts. The Administrative Rule changes will be reviewed starting this fall with full implementation of adopted changes by 2009. The Landowner Preference Review Committee developed the recommendations in this exhibit, which will require Commission action to approve, modify or deny the four Legislative Concepts.

PUBLIC INVOLVEMENT

The Landowner Preference Review Committee included representatives from Oregon Hunters Association, Oregon Bow Hunters Association, Oregon Cattlemen's Association, Oregon Farm Bureau Federation, Foundation for North American Wild Sheep, Oregon Guides and Packers and one landowner at large. Oregon State Police and ODFW staff facilitated the meetings, provided information and advised the LOP Review Committee during the meetings. The Committee met four times to review the current LOP program and develop recommendations for the Commission. All organizations and committee members attended or had substitute representation at the meetings.

Recommendations put forward by the Landowner Preference Review Committee were those that received consensus or majority support from the group. Committee recommendations described in this exhibit will include information related to the extent of the committee's support.

ISSUE 1

Currently ORS 496.146 Sec. 2 is due to sunset January 2, 2010. The LOP Review Committee recommended to extend the sunset an additional 15 years to January 2, 2025.

ANALYSIS

The Committee felt a review similar to the one just completed would be beneficial. This statute authorizes the following:

1. LOP tags shall be issued for hunting deer, elk or pronghorn antelope.
2. LOP tags may only be used on landowners property.
3. LOP tags can be transferred to any person of landowners choosing for taking antlerless animals.
4. Pronghorn antelope LOP tags may not be used for bucks and are not transferable.
5. Allows unused LOP tags to be exchanged for two antlerless tags for the purposes of alleviating damage presently occurring.

LOP tags may be transferred to non-family members for taking antlered animals on a sliding scale.

All members of the LOP Review Committee felt a scheduled review was important so that the program could be adjusted if necessary. The LOP program has a long history since 1982 of periodic assessments to determine whether hunters and landowners needs are met. The LOP Review Committee unanimously supported this concept.

OPTIONS

1. Extend the sunset out another 15 years so that another Legislative review would take place in 2025.
2. Remove the sunset entirely.
3. Amend LOP review committee recommendation.
4. Deny LOP review committee recommendation.

STAFF
RECOMMENDATION

Option 1

ISSUE 2

Currently ORS 496.146 Sec. 2 (4) reads, “landowner preference tags for the hunting of antelope are not transferable and may not be used for the taking of buck antelope.” The LOP review committee recommended to amend ORS 496.146 sec 2 (4) by allowing landowners under the LOP authority to harvest a buck antelope.

ANALYSIS

Currently, the statute prohibits the use of LOP tags for harvesting buck antelope.

Staff concerns regarding this approach include:

1. LOP tags will have some impact on the number of public tags issued. This will vary by unit depending on the amount of private/public land and the number of pronghorn antelope that use both land types. This may have a more significant impact when pronghorn antelope numbers are low.
2. May limit pronghorn antelope hunter access to private land.
3. History has shown large fluctuations in pronghorn antelope numbers. Tag numbers and hunting opportunity fluctuate with changes in pronghorn antelope population levels. It now takes an average of 10 points to draw a buck pronghorn antelope rifle tag but if tag numbers were to drop to mid-1990’s level, the number of preference points required to draw a tag would greatly increase.

Removing the second “not” from the reference of “taking of buck pronghorn antelope” would create the opportunity for the landowner to qualify for LOP pronghorn antelope buck tags. The LOP Review Committee also recommended two additional requirements before landowners would be eligible for a tag; i.e. first, minimum acreages to participate in the program would start at 5000 acres; and second, limit pronghorn antelope buck LOP tags to 10% of the available tags or not less than one tag per controlled hunt area. The latter two recommendations would be dealt with during the Administrative Rule making process if this concept was approved. The Committee was in general agreement on the concept; however, the hunter group representatives expressed concerns that this would limit general hunter access and opportunity.

OPTIONS

1. Amend the statute to allow LOP tags for “taking of buck antelope” by dropping the word “not”.
2. Amend LOP review committee recommendation.
3. Make no changes to the current statute.

STAFF
RECOMMENDATION

Option 3

ISSUE 3

The LOP Review Committee recommended to send both of the following concepts to the Commission for policy discussion. Amend ORS 496.146 (4) by either removing the definition of “immediate family” so all the LOP tags can go to anyone; or add the word “spouse” to the definition of “immediate family”.

ANALYSIS

If the Commission chooses the concept to remove the definition of “immediate family” from the statute then the LOP tags could be directed to anyone of the landowners choosing. The Committee also discussed allowing up to half of the tags to be transferable to anyone. Staff is concerned the concept would encourage landowners to charge access fees and exclude the average hunter. The concept also drifts away from the original intent of the LOP program to provide landowner hunting opportunities on private property in those areas where controlled hunting is present.

The LOP Review committee recommended that “spouse” be added to the definition of “immediate family”. The Office of the Governor’s counsel advisors recommended, “domestic partner” be used in association with “spouse”.

The second Legislative Concept would include “spouse” or “domestic partner” in the definition of “immediate family”. Currently “immediate family” is described as “...husband, wife, father, mother, brother, sister, sons, daughters, stepchildren and grandchildren.” If “spouse” or “domestic partner” is added to the definition, then all spouses or domestic partner of the immediate family would be eligible for LOP tags.

The Commission can choose between removing the definition of “immediate family” or adding the words “spouse” or “domestic partner” to the current statute. A third choice would be to leave the statute as currently written. The LOP Review Committee did not unanimously support removing the definition of “immediate family” from the statute; however, there was complete support for adding “spouse” to the definition of what qualifies as a family member.

OPTIONS

1. Add the word “spouse” or “domestic partner” to the definition of “immediate family”.
2. Recommend to the Legislature to remove the definition of “immediate family”.
3. Allow up to one half of the LOP tags available to be awarded to anyone of the landowners choosing.
4. Make no changes to the current statute.

STAFF RECOMMENDATION

Option 1

ISSUE 4

Contained in ORS 496.146 (4) is a provision that authorized the Access and Habitat (A&H) board to award two additional LOP tags for landowners who provide significant public access and two additional LOP tags for habitat programs that benefit wildlife.

ANALYSIS

The LOP review committee recommends this provision to include an additional tag for landowners who provide access for mentored youth hunting, youth hunting or for terminally ill children.

Since 1995, only one landowner has chosen to use the A&H program to gain additional LOP tags. The primary complaint heard by staff has been that the process to obtain tags is lengthy and cumbersome. The LOP Review Committee suggested modifying the A&H tag process so that the process is streamlined and the additional tags either for access or habitat could go to non-family members. In the statute, the landowner is asked to provide “supporting evidence that the access is significant and the habitat programs benefit wildlife”. The A&H board has struggled to find the correct balance of what the term “significant” means to the hunting public and landowners.

The LOP Review Committee also recommended to expand the A&H tag program if a landowner provided access for mentored youth hunting, youth hunting or access for terminally ill children. In addition, landowners could qualify for an additional tag if they opened up access to an otherwise significant portion of landlocked public property. The LOP Review Committee unanimously supported this concept.

OPTIONS

1. Allow the staff to work with Legislative Counsel to develop a pilot program to implement the recommended changes. Listed are the provisions the LOP Review Committee would include in the pilot program.
 - a. Allow additional A&H tags to be transferred to non-family members.
 - b. Allow the landowner to qualify for additional LOP tags to non-family members for providing access for mentored youth hunting or youth hunts or terminally ill children. Also consider an additional LOP tag to a landowner who would open access to a large parcel of public land, otherwise landlocked.
 - c. The landowners must provide “significant” access or habitat. Request the A&H Board describe the parameters of what is “significant”.
 - d. Request in the legislation to run a pilot program for a minimum of five years with a report back requirement.
 - e. The new program should take into consideration a process to streamline the requirements to qualify for additional tags.
 - f. Access for hunters (i.e. youth, terminally ill children) would be for the same species and bag limit the LOP tags was awarded for.
2. Modify LOP review committee recommendation.
3. Deny LOP review committee recommendation.

**STAFF
RECOMMENDATION**

Option 1

<p>DRAFT MOTION</p>	<p>Issue 1. I move to extend the LOP sunset out another 15 years so that another Legislative review would take place in 2025.</p> <p>Issue 2. I move to retain the current pronghorn antelope LOP restrictions.</p> <p>Issue 3. I move to add the words “spouse” or “domestic partner” to the definition of “immediate family”.</p> <p>Issue 4. I move to allow staff to work with Legislative Counsel to develop a pilot program to implement the recommended changes. .</p>
<p>EFFECTIVE DATE</p>	