

KARI GOODHEART

Chief Petitioner, Initiative Petition 2028-025

Irrigon, Oregon 97844

August 30, 2026

VIA EMAIL: irrlistnotifier.sos@sos.oregon.gov

AND VIA U.S. MAIL

The Honorable Tobias Read
Oregon Secretary of State
Elections Division
Attn: Dena Dawson, Elections Director
255 Capitol Street NE, Suite 126
Salem, Oregon 97310

Re: Written Comments on the Legal Sufficiency of the Draft Ballot Title for Initiative Petition 2028-025 (DOJ File #BT-25-26) — Proposed for the November 7, 2028 General Election

Dear Secretary Read, Director Dawson, and Attorney General Rayfield:

I am Kari Goodheart, an elector of the State of Oregon and the Chief Petitioner of Initiative Petition 2028-025, a proposed amendment to the Oregon Constitution commonly referred to as the Oregon Freedom Amendment. Pursuant to ORS 250.067(1), I respectfully submit these written comments on the legal sufficiency of the draft ballot title prepared by the Attorney General and filed with the Elections Division on August 26, 2026.

These comments address only the legal sufficiency of the draft caption, “yes” result statement, “no” result statement, and summary under ORS 250.035. I request that the Attorney General revise and certify a ballot title that substantially complies with that statute. I also submit these comments to preserve all arguments for any later review under ORS 250.085.

I. The Statutory Standards the Attorney General Must Follow

Oregon law does not leave ballot-title wording to preference. ORS 250.035(2) and (3) impose mandatory content, clarity, and parallelism requirements. The Oregon Supreme Court reviews a certified title for “substantial compliance” with those requirements. ORS 250.085(5). The governing rules include the following.

Caption. ORS 250.035(2)(a) requires “[a] caption of not more than 15 words that reasonably identifies the subject matter of the state measure.” The phrase “Amends Constitution” must appear and is not counted toward the 15-word limit. The “subject matter” is the measure’s “actual major effect,” or, if there is more than one major effect, all such effects to the limit of the available words. *Parrish v. Rosenblum*, 365 Or 597, 600 (2019).

“Yes” result statement. ORS 250.035(2)(b) requires “[a] simple and understandable statement of not more than 25 words that describes the result if the state measure is approved.” The “yes” statement must identify the most significant and immediate effects of the measure and must express those effects directly, not by inference from the “no” statement. *Patterson/Lowe v. Myers*, 330 Or 264 (2000).

“No” result statement. ORS 250.035(2)(c) requires “[a] simple and understandable statement of not more than 25 words that describes the result if the state measure is rejected.” The statement must address the substance of current law on the subject matter and summarize current law accurately. *McCann v. Rosenblum*, 354 Or 701, 707 (2014).

Same terms and parallel language. Two related commands are decisive here. First, “[a]ny thing or action described both in the [‘yes’] statement and in the [‘no’] statement shall be described using the same terms in both statements, to the extent practical.” ORS 250.035(2)(c). Different terms are allowed only if an average elector would understand them to refer to the same thing. Second, “[t]he statements required by subsection (2)(b) and (c) of this section shall be written so that, to the extent practicable, the language of the two statements is parallel.” ORS 250.035(3).

Summary. ORS 250.035(2)(d) requires “[a] concise and impartial statement of not more than 125 words summarizing the state measure and its major effect.” The purpose of the summary is “to give voters enough information to understand what will happen if the initiative is adopted.” The caption, result statements, and summary should, absent a compelling reason to the contrary, use the words used in the measure itself. *Bernard v. Keisling*, 317 Or 591 (1993).

Avoiding voter confusion. ORS 250.035(6) provides that the result statements and summary “shall not omit articles and conjunctions that are necessary to avoid confusion to or misunderstanding by an average elector.”

II. The Text of the Measure — What IP 2028-025 Actually Does

The draft title cannot be evaluated apart from the measure’s own words. Proposed Article I, section 44(1), states:

“The people of Oregon have an individual, fundamental right to hunt, fish, trap, farm, ranch, raise livestock, cultivate crops, harvest natural resources, and engage in generally accepted practices of agriculture, animal husbandry, and scientifically based wildlife management.”

That is the measure’s primary and immediate legal effect. It converts activities that current law generally allows, subject to license, permit, and regulation, into an individual, fundamental constitutional right. Subsection (2) expressly includes traditional, customary, and generally accepted tools, methods, and practices. Subsection (4) then limits the State and its political subdivisions to regulations that are reasonable and narrowly tailored; necessary to promote sound wildlife conservation and management, public safety, or the prevention of substantial harm to public health or private property rights; and consistent with the promotion of sustainable, science-based practices. The measure also prohibits laws that prohibit or substantially burden the right; redefine generally accepted practices as animal abuse, neglect, or cruelty; impose undue or excessive fees or permitting requirements not strictly necessary; or discriminate against traditional rural, agricultural, or wildlife-management practices.

The major effect is therefore twofold and clear: (1) the creation of a constitutional right covering a defined list of activities, and (2) a heightened, specified limit on how that right may be regulated. A legally sufficient ballot title must state both effects, must use the measure’s own list of activities consistently, and must not tell voters that the legal consequence of adoption is “unclear.”

III. The Draft “Yes” and “No” Statements Do Not Use the Same Terms and Are Not Parallel

This is the most serious and most easily corrected defect.

The draft “yes” statement tells the voter that approval “[c]reates constitutional right to hunt, fish, farm, ranch, harvest natural resources.” It omits trapping, raising livestock, and cultivating crops.

The draft “no” statement tells the voter that rejection “[r]etains current laws, which generally allow hunting, fishing, trapping, farming, ranching, raising livestock, cultivating crops, and harvesting natural resources, subject to state and local regulations.”

The draft summary uses yet a third list: “hunt, fish, trap, farm, ranch, raise livestock, cultivate crops, and harvest natural resources.”

The caption uses a fourth, shortened list: “hunt, fish, farm, ranch, and harvest natural resources.”

An average elector comparing the “yes” box with the “no” box will reasonably conclude that a “yes” vote creates a right as to some activities, while a “no” vote preserves permission as to a longer and different set of activities. That is exactly the misunderstanding ORS 250.035(2)(c) and (3) exist to prevent. The statute requires that any thing or action described in both result statements be described with the same terms, to the extent practical, and that the two statements be parallel to the extent practicable.

There is no practical obstacle to using one consistent list. The measure itself supplies that list. Trapping, raising livestock, and cultivating crops are not secondary or incidental. They are named in section 44(1) in the same sentence as hunting, fishing, farming, ranching, and harvesting natural resources. The Attorney General already found them important enough to include in the “no” statement and the summary. They must appear in the “yes” statement as well.

The “yes” statement also fails Patterson/Lowe. A voter should not have to read the “no” statement, notice the extra activities, and infer that those activities are also part of the new right. The result of approval must be stated directly.

Relatedly, the draft “yes” statement does not make clear that the measure changes the legal character of these activities from regulated, permitted activities into a constitutional right. That change — right, not mere permission — is the measure’s central effect. Current law does not confer a constitutional right to hunt, fish, trap, farm, ranch, raise livestock, cultivate crops, or harvest natural resources. Those activities are generally allowed only as the statutes and rules permit. A “yes” vote creates the right. A “no” vote retains the present regime of allowance subject to regulation. The result statements should say so in matching terms.

IV. The Caption Does Not Reasonably Identify the Full Subject Matter

The draft caption reads: “Amends Constitution: Creates right to hunt, fish, farm, ranch, and harvest natural resources; limits regulation of right.”

Within the 15-word limit, the caption correctly notes both a new right and a limit on regulation. It does not, however, reasonably identify the subject matter because it drops trapping and the agricultural activities that the measure and the other title parts treat as part of the same right. Absent a compelling reason, the caption should use the measure’s own words. *Bernard v. Keisling*, 317 Or 591 (1993). Word-limit pressure does not justify a caption that describes a narrower right than the measure creates, especially when the “no” statement and summary describe the broader set.

V. The Summary Emphasizes Prohibitions, Understates the Right, and Must Not Tell Voters the Effect Is “Unclear”

The draft summary spends most of its words on what the State may not do. Those limits are part of the measure and belong in the summary. They are not, however, the measure’s first and major effect. The first and major effect is the creation of an individual, fundamental constitutional right covering the activities named in section 44(1), including traditional, customary, and generally accepted practices.

The last sentence of the draft summary — “Measure’s effect on current law is unclear.” — should be stricken. That sentence does not summarize the measure. It does not identify a major effect. It tells the average elector that even the State cannot say what a “yes” vote does. That is the opposite of the statutory purpose of the summary, which is to give voters enough information to understand what will happen if the initiative is adopted.

The measure’s effect on current law is not mysterious. Under current law, the listed activities are generally allowed subject to state, local, and federal regulation; they are not constitutional rights. If the measure is adopted, those same activities become an individual, fundamental right that may be regulated only under the standard set out in section 44(4), and that may not be prohibited or substantially burdened, redefined as animal abuse, subjected to undue or excessive fees or permitting, or targeted for discrimination under the measure’s express prohibitions. That is a clear change in legal status. If particular existing rules would or would not survive the new standard, that is a question of later application. It is not a reason to tell voters that the measure itself has no ascertainable effect.

A sentence declaring the effect “unclear” also invites the very confusion ORS 250.035(6) forbids. Electors circulating or signing the petition, and later electors voting on the measure, are entitled to a summary that states what the amendment does, not a disclaimer that the drafter declines to say.

VI. Requested Revisions

I respectfully request that the Attorney General certify a revised ballot title that does all of the following:

1. Uses one consistent list of protected activities — drawn from section 44(1) of the measure — in the caption (to the limit of 15 words), the “yes” statement, the “no” statement, and the summary, in compliance with ORS 250.035(2)(c) and (3).
2. States directly in the “yes” result statement that approval creates a constitutional right covering that full list, so that a “yes” vote is not described more narrowly than a “no” vote.
3. States in the “no” result statement, in parallel language, that rejection retains current laws under which those same activities are generally allowed (that is, permitted subject to regulation) rather than guaranteed as a constitutional right.
4. Revises the summary so that it first describes the right the amendment creates, then accurately describes the standard and limits applicable to regulation of that right, using the measure’s own terms.
5. Deletes the sentence “Measure’s effect on current law is unclear.” and replaces it, if any replacement is needed, with a plain statement that current law generally allows the listed activities subject to regulation, while the measure would establish them as a constitutional right.

Proposed language that stays within the statutory word limits follows. I offer it as one legally sufficient formulation, not as the only lawful wording.

Caption

Amends Constitution: Creates right to hunt, fish, trap, farm, ranch, and harvest resources; limits regulation of right.

(Word count after “Amends Constitution”: 15.)

Result of “Yes” Vote

Creates constitutional right to hunt, fish, trap, farm, ranch, raise livestock, cultivate crops, harvest natural resources; limits regulation of that right.

(21 words.)

Result of “No” Vote

Retains current laws that generally allow hunting, fishing, trapping, farming, ranching, raising livestock, cultivating crops, and harvesting natural resources, subject to regulation.

(22 words. Same activities; parallel structure.)

Summary

Amends Constitution. Creates an individual, fundamental right to hunt, fish, trap, farm, ranch, raise livestock, cultivate crops, harvest natural resources, and use traditional, customary, and generally accepted practices. Current law generally allows those activities subject to regulation, not as constitutional rights. Allows only state or local regulations that are reasonable, narrowly tailored, and necessary to promote wildlife conservation and management, public safety, or prevent substantial harm to public health or private property rights, and consistent with sustainable, science-based practices. Prohibits laws that substantially burden the right, redefine accepted practices as animal abuse, impose undue or excessive fees or permitting, or discriminate against traditional rural, agricultural, or wildlife-management practices. Does not authorize trespass.

(114 words; statutory limit is 125.)

VII. Preservation and Request

I respectfully request that these comments be forwarded immediately to the Attorney General as required by ORS 250.067(1), and that the Attorney General consider them and certify either a revised ballot title or a written explanation of why the draft title is believed to substantially comply with ORS 250.035. ORS 250.067(2)(a).

I further request that the Elections Division confirm receipt of these comments before 5:00 p.m. on September 11, 2026, so that the record is complete. Under ORS 250.085(2) and (6), only an elector who timely comments on the draft title may later petition the Supreme Court, and the Court generally will not consider arguments that were not presented in writing during this comment period. These comments are therefore intended to place every objection stated above on the official record.

Oregonians who are asked to sign a petition, and later to vote, must be told in matching, understandable words what a “yes” vote creates and what a “no” vote leaves in place. The draft title does not yet do that. The measure creates a constitutional right to hunt, fish, trap, farm, ranch, raise livestock, cultivate crops, and harvest natural resources, and it limits regulation of that right. The certified ballot title should say so clearly, completely, and consistently.

Thank you for your consideration.

Respectfully submitted,

Kari Goodheart

Chief Petitioner

Initiative Petition 2028-025

Irrigon, Oregon 97844

Copies:

Dan Rayfield, Attorney General

Appellate Division, Oregon Department of Justice

1162 Court Street NE, Salem, Oregon 97301-4096

Megan Bradley, Paralegal, Appellate Division (DOJ File #BT-25-26)