

IN THE SUPREME COURT OF THE STATE OF OREGON

REBECCA STRAUS and DAVID
FIDANQUE,

Petitioners,

v.

ELLEN F. ROSENBLUM, Attorney
General, State of Oregon,

Respondent.

Supreme Court Case No. S 61884

**PETITION TO REVIEW BALLOT TITLE
CERTIFIED BY THE ATTORNEY GENERAL**

(Oral Argument Requested)

Ballot Title (Elections Division No. 301)
Certified on December 5, 2013

Chief Petitioners Rep. Kim Thatcher, Rep. Sal Esquivel, and Rick LaMountain

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ATTORNEYS FOR RESPONDENT

Rep. Kim Thatcher, Rep. Sal Esquivel,
and Richard F. LaMountain
CHIEF PETITIONERS

1.

Petitioners Rebecca Straus and David Fidanque are electors of this State, persons dissatisfied with the ballot title that is the subject of this action, and are adversely affected by Respondent's actions. Petitioners have standing pursuant to ORS 250.085(2) as electors dissatisfied with a ballot title for a qualified referendum measure who timely submitted written comments concerning the draft ballot title.

2.

The text of the referendum measure proposed by Chief Petitioners (Elections Division 301) is attached as Exhibit 1.

3.

On November 4, 2013, the Attorney General submitted a draft ballot title to the Secretary of State for the referendum measure. On November 19, 2013, Petitioners submitted timely comments to the Attorney General's draft ballot title. A copy of those comments is attached as Exhibit 2. Petitioners challenge the certified ballot title based upon the Attorney General's failure to incorporate comments made by the Petitioners and new revisions made to the draft title by the Attorney General after expiration of the comment period as provided in ORS 250.067.

4.

On December 5, 2013, the Attorney General certified the ballot title to the Secretary of State that is attached to the Attorney General's letter to Jim Williams dated December 5, 2013, which is attached to this Petition as Exhibit 3.

5.

The ballot title does not substantially comply with the requirements of ORS

250.035(2). First, the caption does not reasonably identify the subject matter of the measure as required by ORS 250.030(2)(a) because the caption:

a. Fails to identify all of the major effects of the measure, including the differences in qualification for and uses of a driver card compared to a driver license and, as a result, improperly highlights a single difference in qualification: “without requiring proof of legal presence in the United States.”

b. By placing the term driver card in quotation marks, a change from the draft title that no commenter requested and the Attorney General did not explain, which improperly gives voters the impression that the term driver card is ambiguous or has multiple meanings.

Second, the result of “yes” statement does not reasonably identify the result of the measure if approved, as required by ORS 250.035(2)(b), because the result of “yes” statement carries forward the defects of the caption, and also because the result of “yes” statement fails to provide voters with at least the basic eligibility requirements for a driver card: demonstrate safe driving ability, provide proof of identity and Oregon residency for at least one year.

Third, the result of “no” statement does not reasonably identify the result of the rejection of the measure, as required by ORS 250.035(2)(c), because the result of “no” statement carries forward the problems with the caption and result of “yes” statement.

Fourth and finally, the summary does not accurately or adequately summarize the measure and its major effects, as required by ORS 250.035(2)(d), because the summary:

a. Like the caption and result statements, continues to place the term driver

card in quotation marks.

b. Fails to inform voters that a driver card must contain features that permit an individual to easily distinguish a driver card from a driver license—including a purple banner on the face of the card.

ARGUMENTS AND AUTHORITIES

A. The Caption

Recently, this Court explained:

“The ‘subject matter’ of a measure refers to ‘the “actual major effect” of a measure or, if the measure has more than one major effect, all such effects (to the limit of the available words).’ *Whitsett v. Kroger*, 348 Or 243, 247, 230 P3d 545 (2010). To identify the ‘actual major effect’ of a measure, this court looks to ‘the text of the proposed measure to determine the changes that the proposed measure would enact in the context of existing law’ and then evaluates whether the caption reasonably identifies those effects. *Rasmussen v. Kroger*, 350 Or 281, 285, 253 P3d 1031 (2011). In fulfilling the statutory requirements, the caption must identify the measure's subject matter in terms that will not ‘confuse or mislead potential petition signers and voters,’ *Mabon v. Myers*, 332 Or 633, 637, 33 P3d 988 (2001), and it cannot overstate or understate the scope of the legal changes that the measure would enact. *Kain/Waller v. Myers*, 337 Or 36, 40, 93 P3d 62 (2004).”

The caption does not satisfy ORS 250.035(2)(a) because the caption does not capture all significant changes the measure would enact. A key principle applies here: “The combination of highlighting one among many changes and omitting altogether coverage of part of the subject matter of the measure makes the Attorney General's Caption inadequate under the statutory standard.” *Phillips v. Myers*, 325 Or 221, 226, 936 P2d 964 (1997).

The Attorney General explained the “major effect” of Referendum 301 as follows:

“Currently, Oregon law requires ‘proof of legal presence in the United States’ and either a Social Security number or proof of ineligibility for a Social Security number as prerequisites to obtaining driving privileges from the state. ORS 807.021(1). The subject matter of the referendum measure—its major effect—is to establish a new ‘driver card’ that proves the state has granted driving privileges to the card’s holder without requiring the holder to prove legal presence in the United States.” Exhibit 3, p. 1.

By following this logic, the Attorney General impermissibly narrowed the subject matter of the measure. First, the Attorney General identified too few differences between the qualifications or requirements for a driver license and a driver card. The chart attached as Exhibit 4 shows the qualifications for a driver license and a driver card and demonstrates the problems with the Attorney General’s views of current law and the proposed law—problems that led to the Attorney General’s highlighting one major effect over others. The Attorney General identified only two (of many) requirements for a driver license—proof of legal presence in the United States and having a Social Security number or proof of ineligibility for a Social Security number—that are different from the many requirements for a driver card. The Attorney General then selected one of the two differences as the measure’s “major effect.” Selecting one of two differences would be a mistake even if there were only two differences; in this case, there are many differences the Attorney General omitted.

By focusing on one difference in qualifications, the Attorney General omits a necessary discussion of how requirements for obtaining a driver card are like requirements for obtaining a driver license. The major point of concurrence between the two programs is the requirement to demonstrate safe driving ability. The

Legislative Assembly passed the measure to address public safety: “Senate Bill 833 is a public safety measure designed to improve traffic safety and reduce the number of unlicensed and uninsured motorists on Oregon’s roads.” Floor Letter, p.1. Rep. Vega Pederson; Exhibit 5. Laws that govern the granting of driving privileges fulfill this purpose by ensuring that each individual granted the privilege has demonstrated the knowledge and skills to safely operate a motor vehicle by: (1) passing a written test demonstrating the person’s knowledge of the rules of the road in Oregon; (2) passing a vision test; and (3) passing a road test that demonstrates the individual’s practical ability to drive safely on Oregon roads. ORS 807.040.¹

Instead of noting the safety requirements that driver-card applicants must meet, the caption focuses on one requirement that an applicant need not possess. To comply with ORS 250.035(2)(a), the caption should inform voters of basic eligibility criteria for a driver card as opposed to highlighting one qualification not required for eligibility. There is an endless amount of information that is not required of driver-card applicants (marital status, employment information, education history, and on and on); the caption’s listing one qualification that the measure does not require does not serve to inform voters of how the measure would change Oregon law.

That there are different uses for a driver card than a driver license is also of sufficient importance to include in the caption. The caption identifies one difference in *requirements* for a driver card and for a driver license, but does not provide any information to alert voters that there is also a difference between the legal significance

¹ Because this measure came to the ballot by referendum after passage by the Legislative Assembly, the Attorney General should have placed the measure in the broader context of the legislative debate.

of a driver card and of a driver license. Just as the requirements are different, the uses are different. The caption does not inform voters of any uses of a driver card, let alone the differences between a driver card and a driver license.

The Attorney General is incorrect to state that “restrictions on * * * use [of a driver card] are not essential aspects of the measure’s subject matter.” Ex. 3, p. 2. Permissible uses of a driver card were a significant issue in the legislative process. Staff Measure Summary, SB 833-A, Senate Committee on Business and Transportation (April 15, 2013) (“A driver card would not be usable for identification purposes except to designate that the individual is an organ donor, an emancipated minor, a veteran, or to establish identity for civil proceedings or missing person investigations.”).

An Oregon driver license, on the other hand, may be used as proof of identity for federal official purposes under the REAL ID Act of 2005, such as passing through security at an airport and for entering a federal building. The application process for issuance or renewal of an Oregon driver license includes the option of also registering to vote or updating an existing registration (*see* ORS 247.012(1)(c)). An Oregon driver license, permit, or identification card may also be used to establish the signature of an individual who registers to vote electronically pursuant to ORS 247.019. A driver card may not be used for those purposes. The Attorney General found these specific differences important enough to list in the summary; the Attorney General should have addressed at least the existence of these differences in the Caption.

Without explanation, the Attorney General voluntarily changed the draft ballot

title by placing quotation marks around the term card throughout the certified ballot title. The addition of the quotation marks is in error in every section of the ballot title, including the caption. There are limited grounds for placing a term in quotation marks:

“This court has required the Attorney General to put a term used in a ballot title in quotation marks when that term is used in the proposed measure and its meaning is ambiguous. *See Wolf v. Myers*, 343 Or 494, 501, 173 P3d 812 (2007) (so explaining). In that context, quotation marks serve to highlight ‘technical terms expected to be unfamiliar to the reader,’ as well as words used in an unusual or uncertain sense. *See Webster’s Third New Int’l Dictionary* 1868 (unabridged ed. 2002) (defining “quotation mark”). Accordingly, this court has required the use of quotation marks around a term when there are multiple accepted meanings for the term and the measure clarifies which of those accepted meanings is meant, *Tauman v. Myers*, 343 Or 299, 303, 170 P3d 556 (2007), as well as when the term is not defined in the measure and has no ‘plain meaning,’ *Morgan v. Myers*, 342 Or 165, 168, 149 P3d 1160 (2006).”

Chamberlain v. Myers, 344 Or 612, 616, 188 P3d 240 (2008).

None of those reasons is present here. There is nothing ambiguous or technical about the term driver card, and the measure does not select between multiple meanings of the term. The term is defined in the sense that the measure explains the requirements for and uses of the driver card.

To comply with ORS 250.035(2)(a), the caption must inform voters of the basic prerequisites for a driver card and that the uses to which an individual may put the driver card are fewer than those for a driver license. One caption that would comply with ORS 250.035(2)(b) would read:

**Authorizes state to issue limited purpose driver card to
Oregonians who demonstrate safe driving, identity**

B. Result of “Yes” Vote Statement

The result of “yes” statement does not meet the standard set by ORS

250.035(2)(b) because the result of “yes” statement carries forward the same problems as the caption. In addition, the Attorney General’s result of “yes” statement does not comply with ORS 250.035(2)(b), by informing voters only that an individual may obtain a driver card by “meeting specified eligibility.” Instead of telling voters that there are unspecified “specified” eligibility requirements, the result of “yes” statement should actually specify, *i.e.*, name or state, the basic eligibility requirements for a driver card: demonstrate safe driving ability, provide proof of identity and Oregon residency for at least one year. Employing the modifier “specified” is no different than employing the modifier “certain,” which this Court finds “too vague” to be of value to voters. *Rasmussen v. Kroger*, 351 Or 195, 203, n 4, 262 P3d 777 (2011).

In *Novick v. Myers*, 330 Or 351 (2000), for example, the proposed measure would have imposed different dollar limitations on campaign contributions by different classes of contributors. The certified ballot title, however, merely stated that the measure “limits certain campaign contributions.” 330 Or at 354. This Court concluded that the caption failed to convey the crux of the measure, which was to create a system of different contribution limits for different classes of contributors: “The word ‘certain’ in the Attorney General’s caption fails to identify that significant characteristic of the subject matter of the proposed measure.” 330 Or at 356. The same is true of the term “specified,” which serves the same purpose as “certain.”

Because more words are permitted in the result of “yes” statement than in the caption, the result of “yes” statement should build on the caption by providing specifics about the differences between the characteristics of the driver card and the

driver license, including that the driver card is of limited duration: four years instead of 8 for a driver license. Senate Bill 833, §2(6)(b); ORS 807.130.

One result of “yes” statement that would comply with ORS 250.035(2)(b) would read:

Result of “Yes” Vote: “Yes” vote authorizes state to issue limited purpose, limited duration driver card to Oregonians who demonstrate safe driving, prove identity and minimum one-year residency.

C. Result of “No” Vote Statement

The result of “no” statement contains the same problems as the result of “yes” statement. A result of “no” statement that complies with ORS 250.035(2)(c) and (3) would read:

Result of “No” Vote: “No” vote rejects state authority to issue limited purpose, limited duration driver card to Oregonians who demonstrate safe driving, prove identity, minimum one-year residency.

D. Summary

The Attorney General’s summary does not meet the requirements of ORS 250.035(2)(d) for many of the same reasons as the caption and result statements. In addition, the summary omits information necessary to help voters understand how the measure discourage misuse of a driver card: (1) prohibiting use of the terms license or permit on the driver card, and (2) requiring that the card contain a feature clearly distinguishing a driver card from a driver license, Senate Bill 833, §3(1), (2)—which, in this case is a purple banner on the face of the card. OAR 735-058-0010(3).

A summary that complies with ORS 250.035(2)(d) would read:

Summary: Current law authorizes State of Oregon to issue driver license to individual who demonstrates current Oregon residency, safe driving ability, and proof of legal presence in United States.

Measure authorizes the state to issue driver card to individual who demonstrates safe driving ability, provides proof of identity, and proof of residence in Oregon for more than one year. Driver card must contain feature to distinguish card from driver license. Driver card is valid for four years instead of eight years for driver license. Unlike driver license, driver card may not be used as identification for air travel, to enter federal building, register to vote, or obtain any government benefit requiring proof of citizenship or lawful presence in United States. Other provisions.

CONCLUSION

Based upon the foregoing, Petitioners respectfully request that this Court declare that the certified ballot title does not substantially comply with ORS 250.035 and refer the ballot title to the Attorney General for modification.

Respectfully submitted this 19th day of December, 2013.

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On behalf of the ACLU Foundation of Oregon,
Inc.

Enrolled
Senate Bill 833

Sponsored by Senators SHIELDS, ROBLAN, THOMSEN, HANSELL, Representatives VEGA PEDERSON, HARKER, JOHNSON, GILLIAM; Representatives BAILEY, BARNHART, DEMBROW, FREDERICK, GALLEGOS, GARRETT, GOMBERG, GORSEK, GREENLICK, HOLVEY, KENY-GUYER, KOMP, KOTEK, MCKEOWN, NATHANSON, REARDON, TOMBI, WITT

CHAPTER

AN ACT

Relating to documents issued by the Department of Transportation; creating new provisions; amending ORS 366.505, 367.173, 367.605, 802.110, 802.160, 802.200, 807.130, 807.140 and 807.375; and limiting expenditures.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 5 of this 2013 Act are added to and made a part of the Oregon Vehicle Code.

SECTION 2. (1) Except as provided in this section, for the purposes of the Oregon Vehicle Code a driver card is subject to the same statutes and procedures that govern driver licenses and driver permits and shall be issued, renewed or replaced in the same manner as driver licenses or driver permits.

(2) The Department of Transportation shall issue, renew or replace a driver card without requiring a person to provide proof of legal presence in the United States if the person meets the requirements described in subsection (3) of this section.

(3) A person is eligible for a driver card under this section if the person:

(a) Complies with all of the requirements for the type of driving privileges sought to be issued, other than the requirement to provide proof of legal presence in the United States;

(b) Provides proof of identity and date of birth by submitting:

(A) An unexpired valid passport from the person's country of citizenship;

(B) An unexpired valid consular identification document issued by the consulate of the person's country of citizenship, if the department determines that the procedure used in issuing the consular identification document is sufficient to prove the person's identity; or

(C) Such other valid documentation, as defined by the department by rule;

(c) Provides proof of residency in this state in excess of one year as of the date of application;

(d) Provides the Social Security number assigned to the person by the United States Social Security Administration or provides a written statement that the person has not been assigned a Social Security number; and

(e) Pays the fees required under section 5 of this 2013 Act.

(4) The department may issue, renew or replace a driver card for an applicant who has submitted a Social Security number only after the department verifies the Social Security number with the United States Social Security Administration.

(5) A person may prove residency in this state in excess of one year by:

(a) Providing evidence that the person owns or leases property in Oregon for use as a personal domicile by the person;

(b) Providing evidence that the person filed a full-year resident or part-year resident Oregon tax return for the most recent tax year; or

(c) Demonstrating such other factors adopted by the department by rule.

(6) Notwithstanding ORS 807.130 and 807.150, upon issuance and renewal:

(a) A driver card issued under this section that is subject to the same requirements and issued in the same manner as a driver license expires on the anniversary of the licensee's birthday in the fourth calendar year after the date of issuance.

(b) A driver card issued under this section that is subject to the same requirements and issued in the same manner as a driver permit is valid for the period of time for which a driver permit of the same type is issued by the department, but no longer than a period of four years.

(7) The department may not issue a commercial driver license to a person who holds a driver card issued under this section.

(8) The department shall adopt any rules the department considers necessary for the administration of this section.

SECTION 3. A driver card issued, renewed or replaced under section 2 of this 2013 Act must contain:

(1) The words "driver card" and may not contain the words "driver license" or "driver permit."

(2) A feature distinguishing the driver card from a driver license and driver permit. The form of the distinguishing feature shall be determined by the department by rule.

SECTION 4. A driver card issued, renewed or replaced under section 2 of this 2013 Act may be used only:

(1) To provide evidence of a grant of driving privileges.

(2) In the same manner as provided for driver licenses in ORS 97.951 to 97.982 for the purpose of identifying the person as an anatomical donor.

(3) To identify the person as an emancipated minor.

(4) To identify the person as a veteran.

(5) To provide a driver license number as required under ORS 18.042, 18.170 and 25.020.

(6) To provide a driver license number to aid a law enforcement agency in identifying a missing person under ORS 146.181.

SECTION 5. The following are the fees relating to the issuance, replacement and renewal of driver cards:

(1) Driver card issuance fee for a Class C driver card issued under section 2 of this 2013 Act, \$64.

(2) Fee to take the knowledge test for a Class C driver card issued under section 2 of this 2013 Act, \$5.

(3) Fee to take the skills test for a Class C driver card issued under section 2 of this 2013 Act, \$9.

(4) Driver card issuance fee for a restricted Class C driver card issued under section 2 of this 2013 Act, \$64.

(5) Driver card renewal fee for a Class C driver card issued under section 2 of this 2013 Act, \$44.

(6) Replacement fee for a driver card issued under section 2 of this 2013 Act, \$30.

(7) Student Driver Training Fund eligibility fee for a driver card issued under section 2 of this 2013 Act, \$6.

- (8) Fee for reinstatement of revoked driving privileges under ORS 809.390, \$75.
- (9) Fee for reinstatement of suspended driving privileges under ORS 809.380, \$75.
- (10) Fee for reinstatement of right to apply for driving privileges after a delay under ORS 809.280 (10) (1997 Edition), the same as the fee for reinstatement of suspended driving privileges.

SECTION 6. ORS 807.310 is amended to read:

807.310. (1) The Department of Transportation shall provide for the issuance of applicant temporary driver permits in a manner consistent with this section.

(2) The department may issue an applicant temporary driver permit to an applicant for a driver license or for a driver permit while the department is determining all facts relative to application for the driver license or driver permit. The department shall set forth on the applicant temporary driver permit the driving privileges granted under the permit.

(3) The holder of an applicant temporary driver permit must have the temporary driver permit on the holder's person while operating a motor vehicle. The holder of an applicant temporary driver permit must operate within the driving privileges granted under the temporary driver permit.

(4) Except as provided in subsection (5) of this section, an applicant temporary driver permit is valid for a period of 30 days from the date issued. The department may extend the term of the permit for sufficient cause. An extension of the term of the permit may not exceed an additional 30 days.

(5) An applicant temporary driver permit is valid for a period of 90 days from the date issued if an applicant:

(a) Has complied with all the requirements for an application for a driver license or driver permit, except that the applicant is unable to produce the documentation required by the department under ORS 807.021 and 807.730, *the department, at the time of application, may issue to the applicant an applicant temporary driver permit as provided in this section if the applicant;* and

(b) Certifies that the applicant is, to the best of the applicant's knowledge, legally present in the United States.

(6) *[An applicant temporary driver permit issued to an applicant under subsection (5) of this section is valid for a period of 90 days from the date issued.]* The department may extend the term of *[the permit]* an applicant temporary driver permit under subsection (5) of this section up to two times for sufficient cause. Each extension of the term of the permit may not exceed 90 days.

(7) Notwithstanding subsection (6) of this section, the department may, in the manner provided by rule, further extend the term of the applicant temporary driver permit under subsection (5) of this section for an applicant who needs additional time to obtain the documentation required under ORS 807.021 and 807.730.

(8) An applicant temporary driver permit automatically becomes invalid if the applicant's license or permit is issued or refused for good cause.

(9) The department may not charge a fee for issuance of an applicant temporary driver permit under this section.

SECTION 7. ORS 807.130 is amended to read:

807.130. (1) A license that is issued as an original license and not as a license that is renewed expires on the anniversary of the licensee's birthday in the eighth calendar year after the year of issuance.

(2) A license that is renewed under ORS 807.150 expires eight years from the specified expiration date of the immediately preceding license.

(3) Notwithstanding subsections (1) and (2) of this section, a limited term driver license that is issued under ORS 807.730 to a person who is not a citizen or permanent legal resident of the United States expires on the date the licensee is no longer authorized to stay in the United States, as indicated by the documentation the person presented to the Department of Transportation to provide proof of legal presence in the United States as required by ORS 807.021 and 807.730, but no longer than eight years from the date of issuance or, if there is no definite end to the authorized stay, after a period of one year.

(4) A license that has expired does not grant driving privileges and is not valid evidence of driving privileges.

SECTION 8. ORS 366.505 is amended to read:

366.505. (1) The State Highway Fund shall consist of:

(a) All moneys and revenues derived under and by virtue of the sale of bonds, the sale of which is authorized by law and the proceeds thereof to be dedicated to highway purposes.

(b) All moneys and revenues accruing from the licensing of motor vehicles, operators and chauffeurs.

(c) Moneys and revenues derived from any tax levied upon gasoline, distillate, liberty fuel or other volatile and inflammable liquid fuels, except moneys and revenues described in ORS 184.642 (2)(a) that become part of the Department of Transportation Operating Fund.

(d) Moneys and revenues derived from or made available by the federal government for road construction, maintenance or betterment purposes.

(e) All moneys derived from the issuance of driver cards.

[(e)] (f) All moneys and revenues received from all other sources which by law are allocated or dedicated for highway purposes.

(2) The highway fund shall be deemed and held as a trust fund, separate and distinct from the General Fund, and may be used only for the purposes authorized by law and is continually appropriated for such purposes.

(3) Moneys in the State Highway Fund may be invested as provided in ORS 293.701 to 293.820. All interest earnings on any of the funds designated in subsection (1) of this section shall be placed to the credit of the highway fund.

SECTION 9. ORS 367.173 is amended to read:

367.173. The principal, interest, premium, if any, and the purchase or tender price of the grant anticipation revenue bonds issued under ORS 367.161 to 367.181 are payable solely from the following moneys:

(1) Federal transportation funds.

(2) To the extent affirmatively pledged at the time issuance of revenue bonds is authorized, the following moneys that are lawfully available:

(a) Moneys deposited in the State Highway Fund established under ORS 366.505.

(b) Except as provided in paragraph (c) of this subsection, moneys, once deposited in the State Highway Fund established under ORS 366.505, from the following sources may be affirmatively pledged:

(A) Moneys from the taxes and fees on motor carriers imposed under ORS 825.474 and 825.480.

(B) Moneys from the tax on motor vehicle fuel imposed under ORS 319.020.

(C) Moneys from the tax on fuel used in motor vehicles imposed under ORS 319.530.

(D) Moneys described under ORS 803.090 from the titling of vehicles.

(E) Moneys described under ORS 803.420 from the registration of vehicles.

(F) Moneys described under ORS 807.370 relating to the issuance of driver licenses and driver permits.

(G) Moneys described under section 5 of this 2013 Act relating to issuance of driver cards.

[(G)] (H) Moneys received by the Department of Transportation from taxes, fees or charges imposed after January 1, 2001, or other revenues or moneys received by the department from sources not listed in subparagraphs (A) to [(F)] (G) of this paragraph that are lawfully available to be pledged under this section.

(c) Moneys described in paragraph (b) of this subsection do not include:

(A) Moneys provided for appropriations to counties under ORS 366.762 to 366.768.

(B) Moneys provided for appropriations to cities under ORS 366.785 to 366.820.

(C) Moneys in the account established under ORS 366.512 for parks and recreation.

SECTION 10. ORS 367.605 is amended to read:

367.605. (1) Moneys deposited in the State Highway Fund established under ORS 366.505 are pledged to payment of Highway User Tax Bonds issued under ORS 367.615.

(2) Except as provided in subsection (3) of this section, moneys, once deposited in the highway fund from the following sources are subject to the use or pledge described in subsection (1) of this section:

- (a) Moneys from the taxes and fees on motor carriers imposed under ORS 825.474 and 825.480.
- (b) Moneys from the tax on motor vehicle fuel imposed under ORS 319.020.
- (c) Moneys from the tax on fuel used in motor vehicles imposed under ORS 319.530.
- (d) Moneys described under ORS 803.090 from the titling of vehicles.
- (e) Moneys described under ORS 803.420 from the registration of vehicles.
- (f) Moneys described under ORS 807.370 relating to the issuance of driver licenses and driver permits.

(g) Moneys described under section 5 of this 2013 Act relating to the issuance of driver cards.

[(g)] (h) Moneys received by the Department of Transportation from taxes, fees or charges imposed after January 1, 2001, or other revenues received by the department from sources not listed in paragraphs (a) to [(f)] (g) of this subsection that are available for the use or pledge described by this section.

(3) Moneys described under subsection (2) of this section do not include:

- (a) Moneys provided for appropriations to counties under ORS 366.762 to 366.768.
- (b) Moneys provided for appropriations to cities under ORS 366.785 to 366.820.
- (c) Moneys in the account established under ORS 366.512 for parks and recreation.
- (4) To the extent affirmatively pledged, moneys from the following sources are subject to the use or pledge described in subsection (1) of this section:

- (a) Moneys received by the Department of Transportation from the United States government.
- (b) Any other moneys legally available to the department.

(5) Notwithstanding ORS 368.507, the lien or charge of any pledge of moneys securing bonds issued under ORS 367.615 is superior or prior to any other lien or charge and to any law of the state requiring the department to spend moneys for specified highway purposes.

SECTION 11. ORS 802.110 is amended to read:

802.110. Any procedures the Department of Transportation establishes for financial administration of those functions of the department dealing with driver and motor vehicle services and for the disposition and payment of moneys it receives from the provision of driver and motor vehicle services shall comply with all of the following:

(1) The department shall deposit all moneys it receives related to driver and motor vehicle services in the Department of Transportation Driver and Motor Vehicle Suspense Account for approved expenses and disbursements before payment of general administrative expenses of the department related to the provision of driver and motor vehicle services. Notwithstanding this subsection, the department may return a bank check or money order when received in incorrect or incomplete form or when not accompanied by the proper application.

(2) The department shall pay the following approved expenses and disbursements from the Department of Transportation Driver and Motor Vehicle Suspense Account before payment of the general administrative expenses of the department related to driver and motor vehicle services:

(a) Refunds authorized by any statute administered by the department when such refunds are approved by the department.

(b) Amounts transferred to the State Treasurer under ORS 319.410 (2) for the purpose of carrying out the state aviation laws, amounts transferred to the Boating Safety, Law Enforcement and Facility Account by ORS 319.415, amounts transferred to the State Aviation Account by ORS 319.417 and amounts transferred to the Department of Transportation Operating Fund by ORS 184.643.

(c) After deduction of expenses of collection, transfer and administration, the department shall pay moneys collected from the Student Driver Training Fund eligibility fee under ORS 807.040, 807.150 and 807.370 and section 5 of this 2013 Act to the State Treasurer for deposit in the Student Driver Training Fund. The moneys deposited in the Student Driver Training Fund under this paragraph are continuously appropriated to the department for the following purposes:

(A) To the extent of not more than 10 percent of the amount transferred into the Student Driver Training Fund in any biennium, to pay the expenses of administering ORS 336.795, 336.800, 336.805, 336.810 (2) and 336.815.

(B) The remaining moneys, for reimbursing school districts and commercial driver training schools as provided under ORS 336.805.

(d) After deduction of expenses of collection, transfer and administration, the department shall pay moneys collected for the Motorcycle Safety Subaccount under ORS 807.170 to the State Treasurer for deposit in the Motorcycle Safety Subaccount of the Transportation Safety Account. Moneys paid to the State Treasurer under this paragraph shall be used for the purpose of ORS 802.320.

(e) After deduction of expenses for the administration of the issuance of customized registration plates under ORS 805.240, the department shall place moneys received from the sale of customized registration plates in the Passenger Rail Transportation Account. The moneys placed in the account are continuously appropriated to the department and shall be used for the payment of expenses incurred in administering passenger rail programs.

(f) After deduction of expenses of collection, transfer and administration, the department shall pay moneys from any registration fees established by the governing bodies of counties or a district, as defined in ORS 801.237, under ORS 801.041 or 801.042 to the appropriate counties or districts. The department shall make the payments on at least a monthly basis unless another basis is established by the intergovernmental agreements required by ORS 801.041 and 801.042 between the department and the governing bodies of a county or a district.

(g) After deducting the expenses of the department in collecting and transferring the moneys, the department shall make disbursements and payments of moneys collected for or dedicated to any other purpose or fund except the State Highway Fund, including but not limited to, payments to the Department of Transportation Operating Fund established by ORS 184.842 (1) and (2).

(3) The department shall refund from the Department of Transportation Driver and Motor Vehicle Suspense Account any excess or erroneous payment to a person who made the payment or to the person's legal representative when the department determines that money has been received by it in excess of the amount legally due and payable or that it has received money in which it has no legal interest. Refunds payable under this subsection are continuously appropriated for such purposes in the manner for payment of refunds under this section. If the department determines that a refund is due, the department may refund the amount of excess or erroneous payment without a claim being filed. Except as provided in ORS 319.290, 319.375, 319.820 and 319.831, any claim for a refund from the department must be filed within 12 months after the date payment is received by the department.

(4) After payment of those expenses and disbursements approved for payment before general administrative expenses related to the provision of driver and motor vehicle services, the department shall pay from the Department of Transportation Driver and Motor Vehicle Services Administrative Account its general administrative expenses incurred in the administration of any law related to driver and motor vehicle services that the department is charged with administering and any other expenses the department is permitted by law to pay from moneys held by the department before transfer of the moneys to the State Highway Fund. The following limitations apply to payments of administrative expenses under this subsection:

(a) The department shall make payment of the expenses of administering the issuance of winter recreation parking permits under ORS 811.595 from those moneys received from issuing the permits.

(b) The department shall pay its expenses for administering the registration and titling of snowmobiles under ORS 821.060 and 821.100 from the fees collected from administering those sections. The department shall also pay its expenses for the administration of the snowmobile driver permit program under ORS 821.160 from the moneys otherwise described in this paragraph.

(c) The department shall pay its expenses for determining the amount of money to be withheld under ORS 802.120 from the fees collected for administering the registration and titling of snowmobiles. The amount used to pay expenses under this paragraph shall be such sum as necessary but shall not exceed \$10,000 during each biennium.

(d) The department shall retain not more than \$15,000 in any biennium for the expenses of collecting and transferring moneys to the Student Driver Training Fund under this section and for the administration of ORS 336.810 (3).

(5) Except as otherwise provided in this subsection, the department shall transfer to the State Highway Fund the moneys not used for payment of the general administrative expenses or for approved expenses and disbursements before payment of general administrative expenses. The following apply to this subsection:

(a) If the Director of Transportation certifies the amount of principal or interest of highway bonds due on any particular date, the department may make available for the payment of such interest or principal any sums that may be necessary to the extent of moneys on hand available for the State Highway Fund regardless of the dates otherwise specified under this section.

(b) Notwithstanding paragraph (a) of this subsection the department shall not make available for purposes described in paragraph (a) of this subsection any moneys described in ORS 387.605 when there are not sufficient amounts of such moneys in the State Highway Fund for purposes of bonds issued under ORS 387.815.

(6) Notwithstanding any other provision of this section, the following moneys shall be transferred to the State Highway Fund at the times described:

(a) Moneys received under ORS 802.120 and not used for the payment of administrative expenses of the department shall be transferred before July 31 of each year.

(b) Moneys received from the registration of snowmobiles that is not to be used for payment of administrative expenses of the department shall be transferred within 30 days after the end of the quarter.

(c) Moneys received from the issuance of winter recreation parking permits that is not used for payment of administrative expenses of the department shall be transferred within 30 days after the end of the quarter.

(7) The following moneys transferred to the State Highway Fund under this section may be used only for the purposes described as follows:

(a) Moneys collected from the issuance of winter recreation parking permits, and the interest on such moneys, shall be used to enforce the requirement for winter recreation parking permits and to remove snow from winter recreation parking locations designated under ORS 810.170. Any remaining moneys shall, upon approval by the Winter Recreation Advisory Committee:

(A) Be used to maintain parking locations developed with moneys obtained under ORS 810.170 and snowmobile facilities that are parking lots developed with moneys as provided under this section;

(B) Be used to develop additional winter recreation parking locations under ORS 810.170; or

(C) Be carried over to be used in subsequent years for the purposes and in the manner described in this paragraph.

(b) Moneys received from the registration of snowmobiles or under ORS 802.120 may be used for development and maintenance of multiuse trails within urban growth boundaries described in ORS 387.017 or for the development and maintenance of snowmobile facilities, including the acquisition of land therefor by any means other than the exercise of eminent domain. Moneys received under ORS 802.120 may also be used for the enforcement of ORS 811.590, 821.100 to 821.120, 821.140, 821.150, 821.190, 821.210 and 821.240 to 821.290.

(8) The department shall maintain the Revolving Account for Emergency Cash Advances separate from other moneys described in this section. From the account, the department may pay for the taking up of dishonored remittances returned by banks or the State Treasurer and for emergency cash advances to be subsequently reimbursed. The account shall be used only as a revolving fund. The department shall at all times be accountable for the amount of the account, either in cash or unreimbursed items and advances. The moneys in the account are continuously appropriated for the purposes of this subsection. The amount of the account under this subsection shall not exceed \$40,000 from moneys received by the department in the performance of its driver and motor vehicle services functions and moneys otherwise appropriated for purposes of this subsection. The account

under this subsection shall be kept on deposit with the State Treasurer. The State Treasurer is authorized to honor and pay all properly signed and indorsed checks or warrants drawn against the account.

SECTION 12. ORS 802.160 is amended to read:

802.160. The fees collected under ORS 807.370 and section 5 of this 2013 Act for the reinstatement of suspended and revoked driving privileges shall be applied by the Department of Transportation to the cost of preparing and serving notices of suspension or revocation and to the cost of administering the driver improvement program authorized under ORS 809.480.

SECTION 13. ORS 807.375 is amended to read:

807.375. (1) In addition to any fee imposed under ORS 807.370 and 807.410 or section 5 of this 2013 Act, the Department of Transportation may impose a fee for each driver license, driver permit, driver card and identification card that is issued, renewed or replaced, for the purpose of covering the costs of purchasing equipment and establishing and maintaining a database used for collecting and verifying biometric data.

(2) A fee imposed under this section may not be more than \$3 per driver license, driver permit, driver card or identification card.

SECTION 14. ORS 802.200 is amended to read:

802.200. In addition to any other records the Department of Transportation may establish, the department is subject to the following provisions concerning records:

(1) The department shall maintain records concerning the titling of vehicles in this state. The records under this subsection shall include the following:

(a) For vehicles issued a title by this state, the records shall identify the vehicle and contain the following:

(A) The name of the vehicle owner and any security interest holders in order of priority, except that a security interest holder need not be identified if the debtor who granted the interest is in the business of selling vehicles and the vehicles constitute inventory held for sale;

(B) The name of any lessor of the vehicle;

(C) The vehicle description; and

(D) Whether a certificate of title was issued for the vehicle.

(b) If the vehicle is an antique vehicle that is reconstructed, the records shall indicate that the vehicle is reconstructed.

(c) If the vehicle is a replica, the records shall indicate that the vehicle is a replica.

(d) Any other information concerning the titling of vehicles that the department considers convenient or appropriate.

(e) All odometer readings for a vehicle that are reported to the department under provisions of the vehicle code.

(f) If the vehicle has been reported to the department as a totaled vehicle under the provisions of ORS 819.012 or 819.014, the records shall indicate that the vehicle is a totaled vehicle unless the reason for the report was theft and the vehicle has been recovered.

(2) If a vehicle that has been registered or titled in another jurisdiction is registered or titled in this state, the department shall retain a record of any odometer readings shown on the title or registration documents submitted to the department at the time of registration or title.

(3) Except as otherwise provided in ORS 826.003, the department shall maintain records concerning the registration of vehicles required to be registered by the department. The records concerning the registration of vehicles may be stored along with records concerning the titling of vehicles. The records under this subsection shall include the following:

(a) For vehicles registered by the department, the records shall identify the vehicle and contain the following:

(A) The registration plate number assigned by the department to the vehicle;

(B) The name of the vehicle owner;

(C) The vehicle description and vehicle identification number; and

(D) An indication that the vehicle is a totaled vehicle if it has been reported to the department as a totaled vehicle under the provisions of ORS 819.012 or 819.014, unless the reason for the report was theft and the vehicle has been recovered.

(b) Any other information concerning the registration of vehicles that the department considers convenient or appropriate.

(4) The department shall maintain separate records for the regulation of vehicle dealers. The records required under this subsection shall include the following information about persons issued dealer certificates:

(a) The person's application for a vehicle dealer certificate.

(b) An alphabetical index of the name of each person applying for a vehicle dealer certificate.

(c) A numerical index according to the distinctive number assigned to each vehicle dealer.

(5) The department shall maintain a file on vehicles for which the title record is canceled under ORS 819.030. The records required under this subsection shall disclose the last registered owner of each vehicle, any security interest holder or holders and lessors of each vehicle as shown by the canceled title record for each vehicle and the make and year model for each vehicle.

(6) The department shall maintain a record of each agreement or declaration under ORS 802.500 and 802.520.

(7) The department shall maintain separate and comprehensive records of all transactions affecting the Revolving Account for Emergency Cash Advances described under ORS 802.100.

(8) The department shall maintain suitable records of driver licenses, driver permits, driver cards and identification cards. The records required under this subsection shall include all of the following:

(a) An index by name and number.

(b) Supporting documentation of all driver licenses, driver permits, driver cards or identification cards issued.

(c) Every application for a driver license, driver permit, driver card or identification card.

(d) All driver licenses [or], driver permits or driver cards that have been suspended or revoked.

(e) Except as provided in paragraph (f) of this subsection, for each driver license, driver permit or identification card, the Social Security number of the person to whom the driver license, driver permit or identification card is issued or proof that the person is not eligible for a Social Security number.

(f) For each driver card, the Social Security number of the person to whom the driver card is issued or a written statement that the person has not been assigned a Social Security number.

[(f)] (g) For each commercial driver license, the Social Security number of the person to whom the license is issued, or any other number or identifying information that the Secretary of the United States Department of Transportation determines appropriate to identify the person.

(9) The Department of Transportation shall maintain a two-part driving record consisting of an employment driving record and a nonemployment driving record for each person as required under this subsection. All of the following apply to the records required under this subsection:

(a) The department shall maintain driving records on:

(A) Every person who is granted driving privileges under a driver license, driver permit, driver card or a statutory grant of driving privileges under ORS 807.020;

(B) Every person whose driving privileges have been suspended, revoked or canceled under this vehicle code;

(C) Every person who has filed an accident report under ORS 811.725 or 811.730; and

(D) Every person who is required to provide future responsibility filings under ORS 806.200, 806.220, 806.230 or 806.240.

(b) In addition to other information required by this paragraph, the employment driving record shall include all reports of drug test results that are made to the department under ORS 825.410. Notwithstanding any other provision of law, release of the portion of the employment driving record that shows drug test results reported under ORS 825.410 is permitted only in accordance with ORS

802.202. The employment driving record shall also include all motor vehicle accidents that the person is required to report under ORS 811.720, all suspensions of driving privileges required to be placed on the record under ORS 809.280, all suspensions of the person's commercial driver license that result from operation or use of a commercial motor vehicle and all convictions of the person for violation of motor vehicle laws except convictions for offenses requiring mandatory revocation or suspension of driving privileges under ORS 809.409, 809.411, 809.413 and 813.400, but shall include only such accidents, suspensions and convictions that occur while the person is driving a motor vehicle:

(A) In the course of the person's employment when the person is employed by another for the principal purpose of driving a motor vehicle;

(B) Carrying persons or property for compensation;

(C) In the course of the person's employment in the collection, transportation or delivery of mail if the vehicle is government owned or marked for the collection, transportation or delivery of mail in accordance with government rules;

(D) That is an authorized emergency vehicle;

(E) That is a commercial motor vehicle; or

(F) In the course of the person's employment with a federal, state or local government in a public works project involving repair or maintenance of water, sewer or road systems.

(c) The nonemployment driving record shall include the person's:

(A) Motor vehicle accidents that the person is required to report under ORS 811.720, other than the motor vehicle accidents that are included on the person's employment driving record;

(B) Suspensions, cancellations and revocations of licenses, permits and driving privileges;

(C) Convictions for violation of the motor vehicle laws other than those included in the employment driving record including, for each violation of ORS 811.100 or 811.111, the speed at which the person was convicted of traveling and the posted speed, the speed limit or the speed that constitutes prima facie evidence of violation of the basic speed rule, as appropriate; and

(D) Diversion agreements entered into under ORS 813.220 within the preceding 15 years.

(d) The department may record other entries to indicate correspondence, interviews, participation in driver improvement programs or other matters concerning the status of the driving privileges of the person.

(e) When a person from another jurisdiction applies for a driver license or driver permit issued by this state, the department shall request a copy of the person's driving record from the other jurisdiction. At the time the person is issued a license in Oregon, the record from the other jurisdiction shall become part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance. The department by rule may specify methods for converting entries from out-of-state records for use in Oregon.

(f) When a suspension of a driver permit, driver license or other driving privilege is placed on the driving record under ORS 809.280 for failure to appear in court on a traffic crime, the department shall note on the record that the suspension was for failure to appear in court and shall also note the offense charged against the person on which the person failed to appear.

(g) The Department of Transportation, in consultation with the Department of State Police, shall devise and implement a method of noting suspensions and revocations of driving privileges on the record in such a way that police agencies can determine directly from the record what class of offense, as provided by law, is committed by a person who drives in violation of the suspension or revocation. If the Department of Transportation and the Department of State Police devise a mutually agreeable alternative method of informing police agencies of the nature of a suspension or revocation and the consequences of its violation, the implementation of that method shall satisfy the duty of the Department of Transportation under this paragraph.

(10) The Department of Transportation shall maintain records of judgments or convictions sent to the department under ORS 810.375.

(11) The department shall maintain accident reports filed with the department under ORS 810.460 and 811.725 to 811.735.

(12) The department shall maintain records of bank checks or money orders returned under ORS 802.110.

(13) The department shall maintain records of trip permits issued by the department under ORS 803.800, as provided under this subsection. The records required by this subsection shall include the following:

- (a) A description of the vehicle sufficient to identify the vehicle.
- (b) The person to whom the permit was issued.
- (c) When the permit was issued.
- (d) The type of permit issued.
- (e) For registration weight trip permits, the maximum allowable registration weight permitted for operation under the permit.
- (f) Any other information the department determines appropriate or convenient.

SECTION 15. Notwithstanding any other law limiting expenditures, the amount of \$4,708,505 is established for the biennium beginning July 1, 2013, as the maximum limit for payment of expenses for the purpose of carrying out section 2 of this 2013 Act from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Department of Transportation under section 5 of this 2013 Act.

Passed by Senate April 23, 2013

/ s/ Robert Taylor, Secretary of Senate

Peter Courtney, President of Senate

Passed by House April 30, 2013

Tina Kotek, Speaker of House

Received by Governor:

4:00 p.m. April 30, 2013

Approved:

11:40 a.m. May 1, 2013

er, Governor

Filed in Office of Secretary of State:

M., 2013

Kate Brown, Secretary of State

November 19, 2013

VIA FACSIMILE – 503-373-7414

Elections Division
Office of the Secretary of State
255 Capitol St NE, Ste 501
Salem, OR 97310

Re: Public Comment on Proposed 2014 RP 301

Dear Secretary Brown:

On behalf of Rebecca Straus and David Fidanque, registered Oregon voters, we are providing the following comments on the draft ballot title.

The Secretary of State issued the following Draft Ballot Title on November 4, 2013:

**Provides driver card showing driving privileges of eligible
Oregon resident without proof of legal presence.**

Result of “Yes” Vote: “Yes” vote approves 2013 law directing Department of Transportation to issue driver card to Oregon resident, equivalent to driver license, without proof of legal presence.

Result of “No” Vote: “No” vote rejects law enacted in 2013 directing Department of Transportation to issue driver card showing resident’s driving privileges without requiring proof of legal presence.

Summary: The 2013 Legislative Assembly enacted a law directing Department of Transportation to create and to issue a driver card to an applicant who does not provide proof of legal presence in the United State, but who has otherwise complied with all Oregon requirements for the type of driving privileges sought,

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has provided proof that the person has resided in Oregon for more than one year, and has provided proof of identity and date of birth. This measure refers that 2013 act to voters for approval or rejection. Measure outlines eligibility requirements for this driver card. Measure specifies features that must appear on this driver card. Specifies ways in which this driver card may be used as identification. Specifies fees for this driver card. Other provisions.

COMMENTS ON DRAFT TITLE

As explained below in more detail, the draft Ballot Title does not satisfy the legal requirements of ORS 250.035 because the draft Ballot Title describes the qualifications for a driver card in terms of the qualifications an applicant need not meet instead of the qualifications an applicant must meet. The draft Ballot Title contrasts *some* of the qualifications for a driver card with *some* of the qualifications for a driver license instead of explaining to voters how an individual may obtain a driver card and to what uses the individual may put the driver card. Even where the draft Ballot Title provides information about the qualifications for and uses of a driver card, the draft Ballot Title provides information that is too general to be of benefit to voters.

CAPTION

The draft caption provides:

**Provides driver card showing driving privileges of eligible
Oregon resident without proof of legal presence.**

ORS 250.035(2)(a) provides that the ballot title caption must contain “not more than 15 words that reasonably identif[y] the subject matter of the state measure.” The caption is the “cornerstone for the other portions of the ballot title.” *Greene v. Kulongoski*, 322 Or 169, 175, 903 P2d 366 (1995). As the “headline” for the ballot title, the caption “provides the context for the reader’s consideration of the other information in the ballot title.” 322 Or at 175. A caption complies substantially with the requirements of ORS 250.035(2)(a) if the caption identifies the subject matter of the proposed measure in terms that will not confuse or mislead * * * voters. 322 Or at 174-75.

The “subject matter” of a measure, as that term is used in ORS 250.035(2)(a), must be determined with reference to the “significant changes” that would be brought about by the measure. *Phillips v. Myers*, 325 Or 221, 226 (1997).

The draft caption suffers from two specific problems that then flow through other sections of the draft title.

First, the primary purpose of the Vehicle Code is to “provide maximum safety for all persons who travel or otherwise use the public highways of this state[.]” ORS 802.020 (11). Laws that govern the granting of driving privileges fulfill this purpose by ensuring that each individual who is granted the privilege has demonstrated the knowledge and skills to safely operate a motor vehicle by: (1) passing a written test demonstrating the person’s knowledge of the rules of the road in Oregon; (2) passing a vision test; and (3) passing a road test that demonstrates the individual’s practical ability to drive on Oregon roads. ORS 807.040.

For an individual to obtain a driver card, the individual must meet all of these safety-related qualifications. Instead of noting the safety requirements that driver-card applicants must meet, the draft caption focuses on one requirement that the applicant might not possess. To comply with ORS 250.035(2)(a), the caption should inform voters of the eligibility criteria for a driver card as opposed to highlighting the documents or elements that are not required for eligibility. Naturally, there is an endless amount of information that is not required of driver-card applicants (marital status, employment information, education history, and on and on); listing those nonrequired disclosures in the caption does not serve to inform voters of how the measure would change Oregon law. The highlighting of lack of lawful presence might be appropriate if the measure proposed to remove that qualification for a driver license, but the measure does not amend ORS 807.040. For this reason, it is unnecessary and potentially under-inclusive to include reference to proof of lawful presence in the caption.

In a related vein, to say that a driver card is available to “eligible” applicants does not provide helpful information without, at the same time, providing at least the basic eligibility requirements: Oregon residency and proof of identity. For any privilege the state confers, there are some eligibility requirements; therefore, to refer to “eligible” applicants does not add to voters’ understanding of the measure. *See Baker v. Keisling*, 312 Or 385, 400 (1991) (Van Hoomissen, J., dissenting: “all” is an inappropriate “surplus word”).

Second, the draft caption fails to comply with ORS 250.035(2)(a) by failing to inform voters of the narrow terms and function of the driver card. Among the significant and unique characteristics of the driver card are a limited duration of four years, SB 833, §2(6)(a), (b), and limited, enumerated uses for the card, SB 833, §4. Driving privileges are only one of several permitted and limited uses of a driver card. Although demonstrating that the card-holder has met the knowledge, skills and capacity requirements for safe driving is the most important purpose of the card, it is important to, at a minimum, alert voters that uses to which the driver card may be put are limited. Describing only one use—“show[ing] driving privileges” — provides incomplete and, therefore, misleading information to voters. A ballot title that provides insufficiently detailed information does not comply with ORS 250.035. *See Girod v. Kroger*,

351 Or 389, 398 (2011) (caption insufficient when describing that “measure would change unspecified ‘fishing methods/procedures’”).

We suggest addressing these issues as follows:

**Creates limited purpose, duration driver card for applicants
who demonstrate safe driving, Oregon residence, identity**

RESULT OF “YES” VOTE

“ORS 250.035(2)(b) and (c) require ‘simple understandable’ statements of not more than 25 words that describe the result if voters approve the proposed measure and if they reject it.” *Wyant/Nichols v. Myers*, 336 Or 128, 138 (2003). The purpose of this section of the ballot title is to “notify petition signers and voters of the result or results of enactment that would have the greatest importance to the people of Oregon.” *Novick v. Myers*, 337 Or 568, 574 (2004). The yes statement builds upon the caption. *Hamilton v. Myers*, 326 Or 44, 51 (1997).

The draft yes statement reads as follows:

Result of “Yes” Vote: “Yes” vote approves 2013 law directing Department of Transportation to issue driver card to Oregon resident, equivalent to driver license, without proof of legal presence.

The yes statement carries forward the problems of the caption and is deficient in an additional way: the driver card is not “equivalent to” a driver license. “Equivalent” means “equal in force or amount” or “like in signification or import.” Merriam-Webster’s dictionary defines “equivalent” as “equal in force, amount, or value,” but the driver card is not “equal in force * * * or value” to a driver license. Section 3 of SB 833 provides that the driver card may not say that the card is a license and requires a feature to distinguish the card from a license. Section 4 of SB 833 limits the uses to which a driver card may be put. Section 2 specifies that the driver card shall be valid for a period of four years, half as long as a driver license.

In addition, a valid Oregon driver license may be used as proof of identity for federal official purposes under the REAL ID Act of 2005, such as passing through security at an airport and for entering a federal building. The application process for issuance or renewal of an Oregon driver license includes the option of also registering to vote or updating an existing registration (*see* ORS 247.012(1)(c)). A valid Oregon driver license, permit or identification card may also be used to establish the signature of an individual who registers to vote electronically pursuant to ORS 247.019. Section 4 of SB 833 provides that the driver card may not be used for those purposes. Staff Measure Summary, SB 833-A, Senate Committee on Business and

Transportation (April 15, 2013) (“A driver card would not be usable for identification purposes except to designate that the individual is an organ donor, an emancipated minor, a veteran, or to establish identity for civil proceedings or missing person investigations.”).

One way to address the concerns raised about the yes statement is:

Result of “Yes” Vote: “Yes” vote approves limited purpose, limited duration driver card for applicants who demonstrate safe driving, prove Oregon residency, identity and birthdate.

RESULT OF “NO” VOTE

The Attorney General issued the following draft no statement:

Result of “No” Vote: “No” vote rejects law enacted in 2013 directing Department of Transportation to issue driver card showing resident’s driving privileges without requiring proof of legal presence.

ORS 250.035(2)(c) requires the no statement to “us[e] the same terms” as the yes statement “to the extent practical.” ORS 250.035(3) reinforces the requirement by requiring that the no and yes statements “be written so that, to the extent practicable, the language of the two statements is parallel.”

The result of the no statement carries forward the problems of the result of the yes statement. To mirror the suggested yes statement, we propose:

Result of “No” Vote: “No” vote rejects 2013 law to create limited purpose, limited duration driver card for applicants who demonstrate safe driving, prove Oregon residency, identity and birth date.

SUMMARY

The Attorney General issued the following draft Summary:

Summary: The 2013 Legislative Assembly enacted a law directing Department of Transportation to create and to issue a driver card to an applicant who does not provide proof of legal presence in the United States, but who has otherwise complied with all Oregon requirements for the type of driving privileges sought, has provided proof that the person has resided in Oregon

for more than one year, and has provided proof of identity and date of birth. This measure refers that 2013 act to voters for approval or rejection. Measure outlines eligibility requirements for this driver card. Measure specifies features that must appear on this driver card. Specifies ways in which this driver card may be used as identification. Specifies fees for this driver card. Other provisions.

The summary carries forward problems of the caption, yes statement, and no statement.

Also, the summary fails to adequately inform voters of the measure's major effects, as required by ORS 250.035(2)(d). The description of the measure is "too vague and gives voters no clear picture of what is at stake." *Hunnicuttt/Stacey v. Myers*, 343 Or 387, 391 (2007). In *Novick v. Myers*, 330 Or 351 (2000), for example, the proposed measure would have imposed different dollar limitations on campaign contributions by different classes of contributors. The certified ballot title, however, merely stated that the measure "limits certain campaign contributions." 330 Or at 354. The Supreme Court concluded that the caption failed to convey the crux of the measure, which was to create a system of different contribution limits for different classes of contributors: "The word 'certain' in the Attorney General's caption fails to identify that significant characteristic of the subject matter of the proposed measure." 330 Or at 356. The same is true here.

The following statements in the draft summary do not give voters enough information to determine the scope of the measure on which they will be voting:

- "[O]utlines eligibility requirements for this driver card.
- "[S]pecifies features that must appear on this driver card.
- "Specifies ways in which this driver card may be used as identification."

An alternative summary that might address some, if not all, of these concerns would read:

Summary: The 2013 Legislative Assembly enacted a law directing the Department of Transportation to create and issue a limited purpose, limited duration driver card to applicants who demonstrate the skills and knowledge for safe driving, can provide proof of residency in Oregon for more than one year, and provide proof of identity and date of birth. This measure refers that 2013

Elections Division
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Act to voters for approval or rejection. Driver card would be valid for only four years, instead of eight, and could not be used for identification for air travel, to enter a federal building, register to vote, or to obtain any other government benefit that requires proof of citizenship or lawful presence in the United States. Measure specifies fees for driver card. Other provisions.

Thank you for your consideration.

Very truly yours,

Davis Wright Tremaine LLP

f Oregon

GAC/jan



DEPARTMENT OF JUSTICE
APPELLATE DIVISION

December 5, 2013

Jim Williams
Director, Elections Division
Office of the Secretary of State
141 State Capitol
Salem, OR 97310

Re: Proposed Initiative Petition — Provides Oregon Resident "Driver Card" Without
Requiring Proof of Legal Presence in the United States
DOJ File # 137098ARF0003-13-13; Elections Division #301

Dear Mr. Williams:

We have received the comments submitted in response to the draft ballot title for the Referendum # 301 (2014). The comments were submitted by Steven C. Berman, on behalf of Arthur Towers; Gregory A. Chaimov, on behalf of Rebecca Straus and David Fidanque; and Cynthia Kendoll, on behalf of chief petitioners Rep. Kim Thatcher, Rep. Sal Esquivel and Rick LaMountain. We provide the enclosed certified ballot title.

This letter summarizes the comments we received, our response to those comments, and the reasons we made or declined to make the changes proposed by the commenters. This letter must be included in the record in the event the Oregon Supreme Court is asked to review this ballot title. ORAP 11.30(7).

A. The Draft Caption

The draft caption provides:

**Provides driver card showing driving privileges of eligible
Oregon resident without proof of legal presence**

Currently, Oregon law requires "proof of legal presence in the United States" and either a Social Security number or proof of ineligibility for a Social Security number as prerequisites to obtaining driving privileges from the state. ORS 807.021(1). The subject matter of the referendum measure—its major effect—is to establish a new "driver card" that proves the state has granted driving privileges to the card's holder without requiring the holder to prove legal presence in the United States.

Commenter Towers

Commenter Towers submits that the phrase “without proof of legal presence” is confusing and inaccurate and could mislead voters to conclude the applicant need not provide proof of residency in Oregon. We agree with Towers that “without proof of legal presence” could be confusing to voters.

Towers’s comment that the applicant must provide proof of identity and date of birth is correct, but we have found it impossible to include all of the eligibility requirements within the word limits for a ballot title caption.

Towers comments that the phrase “showing driving privileges” is “underinclusive,” because the driver card can be used for other purposes, such as showing the holder is an anatomical donor, an emancipated minor, a veteran, and as identification for specified purposes. The purpose of the caption is not to identify every use to which the card could be put. Nor must the caption inform voters the duration of the driver card or what the driver card cannot be used for, as Towers suggests. The major effect of the law, as stated, is to provide a mechanism for the state to grant driving privileges without requiring proof of legal presence in the United States.

Commenters Straus and Fidanque

Commenters Straus and Fidanque identify two purported flaws in the draft caption. First, they assert that the caption must inform voters that driver card applicants must meet “safety-related qualifications.” We disagree, because all persons requesting driving privileges must meet safety-related requirements. The subject matter of the measure is whether certain otherwise qualified Oregon residents may be afforded driving privileges without proof of legal presence in the United States.

Straus and Fidanque contend that the caption must tell voters “at least the basic eligibility requirements,” or else “eligible” is a “surplus word.” We have eliminated “eligible” from the certified caption.

These commenters also assert that the draft caption fails to inform voters of “the narrow terms and function of the driver card”—in particular, the card’s limited duration of four years and its “limited, enumerated uses.” We disagree that the duration of the card and the restrictions on its use are essential aspects of the measure’s subject matter, which is to authorize a grant of driving privileges without requiring proof of legal presence in the United States.

Commenters Rep. Thatcher, Rep. Esquivel, and LaMountain

These commenters object to the caption’s reference to “Oregon resident,” because in-state residency is only one of the several requirements for obtaining a driver card. Those “other requirements” include proof of identity, proof of a social security number or that a social security has not been assigned, payment of a fee, and compliance with other requirements for obtaining a

driver license. The commenters would retain the reference to an "Oregon" driver card, but omit the reference to an "Oregon resident."

We disagree with the commenters' suggestion, because Oregon residency is not like paying a fee, passing a driving test, or proving identity. The measure makes driver cards available only to persons who have lived in Oregon "in excess of one year as of the date of application." Thus, only certain categories of persons are even eligible to apply for a driver card. Oregon driver cards will not be available to anyone who has not lived in Oregon for more than a year. That is a significant part of the subject matter of the measure, because one-year residence in Oregon is a significant limitation on the expanded availability of driving privileges established by the measure.

The commenters also suggest adding "in the United States" after "legal presence." As the commenters point out, other statutes use "in the United States" after the phrase "without proof of legal presence." Therefore, we have added that information to the certified caption, which provides:

**Provides Oregon resident "driver card" without
requiring proof of legal presence in United States**

B. The Result Statements

The draft "yes" result statement provides:

Result of "Yes" Vote: "Yes" vote approves 2013 law directing Department of Transportation to issue driver card to Oregon resident, equivalent to driver license, without proof of legal presence.

The draft "no" result statement provides:

Result of "No" Vote: "No" vote rejects law enacted in 2013 directing Department of Transportation to issue driver card showing resident's driving privileges without requiring proof of legal presence.

Commenter Towers

Commenter Towers objects to the "yes" result statements for the reasons he objects to the caption. As discussed above, we do not accept the commenter's suggested changes. In addition, Towers comments that the phrase "equivalent to driver license" is inaccurate. We agree, and we have deleted that phrase in the certified "yes" result statement.

Towers next objects to the phrase "approves 2013 law" on the ground that the phrase "explains the procedural posture of the Referendum" rather than "the change in law" if the measure is approved. We agree, and we have modified the result statements accordingly.

Commenters Straus and Fidanque

These commenters also object that a driver card is not “equivalent to” a driver license, and we agree.

Commenters Rep. Thatcher, Rep. Esquivel, and LaMountain

These commenters renew their suggestion to add “in the United States” after “without legal presence.” We have adopted that suggestion in the certified result statements. They renew their objection to “Oregon resident,” which we decline to change for the reasons stated above.

We certify the following results statements:

Result of “Yes” Vote: “Yes” vote directs Department of Transportation to issue “driver card” to Oregon resident meeting specified eligibility, without requiring proof of legal presence in United States.

Result of “No” vote: “No” vote rejects law directing Department of Transportation to issue driver card to eligible Oregon resident without requiring proof of legal presence in United States.

C. The Summary

The draft summary provides:

Summary: The 2013 Legislative Assembly enacted a law directing Department of Transportation to create and to issue a driver card to an applicant who does not provide proof of legal presence in the United States, but who has otherwise complied with all Oregon requirements for the type of driving privileges sought, has provided proof that the person has resided in Oregon for more than one year, and has provided proof of identity and date of birth. This measure refers that 2013 act to voters for approval or rejection. Measure outlines eligibility requirements for this driver card. Measure specifies features that must appear on this driver card. Specifies ways in which this driver card may be used as identification. Specifies fees for this driver card. Other provisions.

Commenter Towers

Commenter Towers asserts that the summary contains the flaws he noted in the caption and result statements. Our response to his comments is explained above.

Commenters Straus and Fidanque

These commenters renew the objections they made to the caption and result statements, which are addressed above. In addition, they assert that the summary fails to adequately inform voters of the measure’s major effects. Specifically, they assert the summary fails to tell voters

the scope of the eligibility requirements for the driver card, the specified features that must appear on the card, and the specified ways in which the card may be used for identification. The commenters suggest an alternative summary that includes more specifics about the driver card's use and requirements for obtaining a driver card.

We have already determined that references in the ballot title to the 2013 law passed by the legislature are unnecessary. Omitting that language from the summary leaves more words for informing voters of the measure's details, in response to the commenters' objections.

Commenters Rep. Thatcher, Rep. Esquivel, and LaMountain

We again adopt the commenters' suggestion to add "in [the] United States" after "proof of legal presence." Because we have deleted references to the 2013 legislation, we need not address the commenters' suggestions about those references. The commenters also suggest adding an opening sentence "to provide context and inform the voter of the major effect of" the measure. We agree that such a sentence would be helpful to voters.

We certify the following summary:

Summary: Current law requires any applicant for an Oregon driver license or permit to provide proof of legal presence in the United States. Measure directs the Department of Transportation to issue a "driver card" to an applicant who does not provide proof of legal presence in the United States, but who has otherwise complied with all Oregon requirements for the type of driving privileges sought, has provided proof of residence in Oregon for more than one year, and has provided proof of identity and date of birth. The driver card may not be used as identification for air travel, to enter a federal building, to register to vote or to obtain any government benefit requiring proof of citizenship or lawful presence in United States. Other provisions.

As modified, we certify the ballot title.

Sincerely,

Attorney-in-Charge ✓
Civil/Administrative Appeals
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DGF:chc/4831698

Enclosure

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BALLOT TITLE

**Provides Oregon resident “driver card” without
requiring proof of legal presence in the United States**

Result of “Yes” Vote: “Yes” vote directs Department of Transportation to issue “driver card” to Oregon resident meeting specified eligibility, without requiring proof of legal presence in United States.

Result of “No” Vote: “No” vote rejects law directing Department of Transportation to issue “driver card” to eligible Oregon resident without requiring proof of legal presence in United States.

Summary: Current law requires any applicant for an Oregon driver license or permit to provide proof of legal presence in the United States. Measure directs the Department of Transportation to issue a “driver card” to an applicant who does not provide proof of legal presence in the United States, but who has otherwise complied with all Oregon requirements for the type of driving privileges sought, has provided proof of residence in Oregon for more than one year, and has provided proof of identity and date of birth. The driver card may not be used as identification for air travel, to enter a federal building, to register to vote or to obtain any government benefit requiring proof of citizenship or lawful presence in United States. Other provisions.

EXHIBIT 4

COMPARISON OF ELIGIBILITY REQUIREMENTS FOR DRIVER LICENSE AND DRIVER CARD

| Qualifications | Driver License | Driver Card |
|--|-------------------------------------|-------------------------------------|
| Be at least 16 years old ¹ | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Complete application ² | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Demonstrate Oregon domiciliary or residency ³ | <input checked="" type="checkbox"/> | |
| Demonstrate Oregon residency for over one year ⁴ | | <input checked="" type="checkbox"/> |
| Provide SSN or proof of ineligibility for SSN ⁵ | <input checked="" type="checkbox"/> | |
| Provide SSN or statement of lack of SSN ⁶ | | <input checked="" type="checkbox"/> |
| Demonstrate legal presence in United States ⁷ | <input checked="" type="checkbox"/> | |
| Provide proof of identity ⁸ | | <input checked="" type="checkbox"/> |
| Submit to collection of biometric data ⁹ | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Pass examination of eyesight ¹⁰ | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Pass examination of traffic laws, safe driving practices ¹¹ | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Pass examination of ability to drive ¹² | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |

¹ ORS 807.060(1). The chart does not address disqualifying characteristics that the Legislative Assembly has prescribed, such as the Department of Transportation's having determined that the applicant has "a problem condition involving alcohol." ORS 807.060(4).

² ORS 807.040(1)(a), 807.050.

³ ORS 807.062(1).

⁴ 2013 Senate Bill 833, §2(3)(c).

⁵ ORS 807.040(1)(b).

⁶ 2013 Senate Bill 833, §2(3)(d).

⁷ ORS 807.040(1)(b), 807.021.

⁸ 2013 Senate Bill 833, §2(3)(b).

⁹ ORS 807.040(1)(c).

¹⁰ ORS 807.040(1)(d); ORS 807.070(1).

¹¹ ORS 807.040(1)(d); ORS 807.070(2).

¹² ORS 807.040(1)(d); ORS 807.070(3).

| Qualifications | Driver License | Driver Card |
|---------------------------------|-------------------------------------|-------------------------------------|
| Pay a fee of \$60 ¹³ | <input checked="" type="checkbox"/> | |
| Pay a fee of \$64 ¹⁴ | | <input checked="" type="checkbox"/> |

¹³ <http://www.oregon.gov/ODOT/DMV/Pages/fees/driver.aspx>
¹⁴ 2013 Senate Bill 833, §5(1).

**Oregon's Law Enforcement, Business, Labor,
Social Services, Faith and Community leaders
Support SB 833B**

We are a diverse group of interests all of whom are committed to the public safety and economic welfare of the State of Oregon. We encourage you to support SB 833B, which would create a driver card for all who reside in our State. This bipartisan public safety bill will save lives and significantly reduce the fiscal impact on motorists caused by uninsured and unlicensed drivers.

Senate Bill 833B is a public safety measure designed to improve traffic safety and reduce the number of unlicensed and uninsured motorists on Oregon's roads.

All Oregonians, regardless of status, need to be able to take a test, know the rules of the road, and be able to get to their jobs. This is a public safety issue and Oregon should do all it can to make sure our roads are safe, our motorists licensed and insured, and to ensure that people prove who they are and know how to drive.

We need all residents of the State of Oregon to be able fully to participate in the economy. Senate Bill 833B was crafted by a diverse group of interests and is narrowly constructed to obtain one stated goal – allowing folks to get to work, to their place of worship, to school, and to participate in commerce. We feel that SB 833B is a common-sense approach to the Oregon Driver License issue.

This legislation is important because it helps those in our community, particularly the elderly, who were born at home rather than at a hospital, and cannot provide a birth certificate. It allows those emerging from homelessness to re-enter the workforce and society, although it requires all applicants to prove residency in Oregon for at least a year. It also is important for veterans because it would permit our decorated and honorable servicemen and servicewomen to use their military documents in the application process.

The bill pays for itself through its fee structure, which includes a 4-year renewal cycle and utilizes modern technology of facial recognition to prevent fraud. The driver card does not confer eligibility for any State benefits for which the person would not otherwise be eligible.

**There are important public safety, social, and economic reasons to pass this bill,
and we urge you to vote YES on SB 833B.**

Please see below the 85 individuals and groups that support SB 833B

Agricultural Cooperative Council of Oregon
 American Civil Liberties Union of Oregon
 American Immigration Lawyers Association (Oregon)
 Asian Pacific American Network of Oregon
 Associated General Contractors
 Associated Oregon Industries
 Associated Oregon Loggers
 Benton County District Attorney John Haroldson
 Bishop Dave Brauer-Rieke, Oregon Synod – ELCA
 CAPACES Leadership Institute
 Catholic Charities
 CAUSA
 Center for Intercultural Organizing
 Centro Latino Americano
 Chancellor Mary Jo Tully, Archdiocese of Portland
 City of Portland Police Chief Mike Reese
 Columbia Gorge Fruit Growers Association
 JOIN: Connecting a street to a home
 Justice Paul DeMuniz (Retired Chief Justice)
 Ecumenical Ministries of Oregon
 Hillsboro Police Chief Ron Louie
 Hispanic Metropolitan Chamber of Commerce
 Latino Business Alliance
 Latino Network
 Latinos Unidos Siempre
 Mano a Mano Family Center
 Multnomah County Chair Jeff Cogan
 NW Food Processors Association
 Oregon Action
 Oregon AFL-CIO
 Oregon Association of Nurseries
 Oregon Blueberry Commission
 Oregon Business Association
 Oregon Catholic Conference
 Oregon Commission for Women
 Oregon Commission on Asian & Pacific Islander Affairs
 Oregon Commission on Black Affairs
 Oregon Commission on Hispanic Affairs
 Oregon Dairy Farmers Association
 Oregon DREAMers
 Oregon Essential Oil Growers League
 Oregon Farm Bureau Federation

Oregon Fresh Market Growers Association
 Oregon Health Equity Alliance
 Oregon Home Builders Association
 Oregon Landscape Contractors Association
 Oregon Latino Agenda for Action
 Oregon Latino Health Coalition
 Oregon Law Center
 Oregon Restaurant & Lodging Association
 Oregonians for Food and Shelter
 Oregon Wheat Growers League
 Oregon Winegrowers Association
 Pacific NW Christmas Tree Association
 Partnership for Safety and Justice
 Pastor Matt Hennessee, Vancouver Ave 1st Baptist Church
 PCUN (Piñeros y Campesinos Unidos del Noroeste)
 Rev. Dr. Walter John Boris, United Church of Christ
 Rev. Lorne Bostwick, Central Presbyterian Church
 Rev. Dan Bryant, First Christian Church
 Rev. Chuck Currie, Sunnyside & Univ. Park Church
 Rev. Lowell Greathouse, United Methodist Church
 Rev. Dr. Sally Godard, UNIDOS Bridging Communities
 Rev. Kent Harrop, First Baptist Church of McMinnville
 Rev. Cecil Prescod, United Church of Christ
 Rev. John Reutter-Harrah, Prince of Life Lutheran
 Rev. Bill Lupfer, Trinity Episcopal Cathedral
 Rev. Dr. David Massey, American Baptist Church
 Rev. Stephen Schaftroth, St. Paul's Episcopal Church
 Rev. Alicia Speidel, First Christian Church (Medford)
 Rev. David Wheeler, First Baptist Church of Portland
 Rev. Doug Wirt, Christian Church Disciples of Christ
 Rev. Dana Worsnop, Atkinson Memorial Church
 Salem/Keizer Coalition for Equity
 SEIU Oregon State Council
 SEIU Local 49
 SEIU Local 503
 Sheriff Lee Vasquez (retired Yamhill County Sheriff)
 Lori Stegmann, Stegmann Insurance
 The Urban League of Portland
 Umatilla County Board of Commissioners
 Upstream Public Health
 Voz Hispana Causa Chavista
 Western States Center
 Women Struggle for Progress

CERTIFICATE OF FILING AND SERVICE

I hereby certify that, on December 19, 2013, I directed the **PETITION TO REVIEW BALLOT TITLE CERTIFIED BY THE ATTORNEY GENERAL** to be electronically filed with the Appellate Court Administrator, Appellate Courts Records Section, 1163 State Street, Salem, OR 97301-2563, by using the court's electronic filing system.

I further certify that, on December 19, 2013, I served one copy of the foregoing **PETITION TO REVIEW BALLOT TITLE CERTIFIED BY THE ATTORNEY GENERAL** by causing a copy thereof to be hand delivered to the Attorney General and Secretary of State as follows:

Ellen F. Rosenblum
Attorney General of the State of Oregon
Anna Marie Joyce
Office of the Solicitor General
DOJ Appellate Division
1162 Court Street, NE
Salem, Oregon 97301-4096

The Honorable Kate Brown
Secretary of State
Elections Division
Public Service Building
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Salem, OR 97310-0722

and by causing a copy thereof to be mailed to the Chief Petitioners as follows:

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By /s/ Gregory A. Chaimov
Gregory A. Chaimov, OSB No. 822180
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On behalf of the ACLU Foundation of Oregon,
Inc.