

**Written Testimony of Our Children’s Trust  
In Support of SJR 28-1 – The Right to a Healthy Environment Amendment  
Oregon Senate Rules Committee – March 26, 2025**

Chair Jama, Vice Chair Bonham, and Members of the Committee:

Thank you for the opportunity to provide written testimony in support of SJR 28-1, the Right to a Healthy Environment Amendment.

Our Children’s Trust is a nonprofit organization based in Eugene, Oregon. We represent youth in climate and environmental rights litigation across the country and around the world. Our Children’s Trust empowers youth to secure their climate rights, protect their futures, and save our planet.

We have seen the transformative power of constitutional environmental rights. In Montana and Hawai‘i, youth plaintiffs we represent have successfully challenged their governments’ failure to protect the climate—because those states enshrine environmental rights in their constitutions. These victories have compelled meaningful, science-aligned government action. In both states, courts and agencies had the legal tools to intervene.

Unfortunately, Oregon does not currently offer that same constitutional clarity. In *Chernaik v. Brown*, a decade-long legal battle brought by youth plaintiffs here at home, the Oregon Supreme Court acknowledged the legitimacy of the harms caused by climate change. Yet, in large part because our Constitution lacks explicit protections, the Court declined to determine whether Oregon law requires the state to protect the climate or other essential natural resources. The result is that, despite the urgency of the climate crisis, Oregon’s young people have no recognized enforceable environmental rights under current law.

SJR 28-1 would change that. It would ensure that the right of every Oregonian—especially children and future generations—to clean air and water, a stable climate, and healthy ecosystems is protected. It would also clarify the state’s duty to protect these public resources, not only when the political will exists, but as a matter of fundamental responsibility.

**Addressing Key Questions About the Amendment**

In response to the thoughtful questions raised by members of this Committee and others, we address several key points about what the amendment does and how it would function:

**What about concerns that the language is vague?**

The amendment is drafted with the level of specificity appropriate for a constitutional right. The terms “clean air,” “clean water,” and “a stable climate” in the amendment are intended to be interpreted according to best available science for the protection of public health and safety. Many existing provisions in Oregon’s Constitution and existing laws in Oregon’s statutory code, including environmental laws, purposely rely on flexible language. This is a feature and not a bug. Constitutional provisions must be interpreted by courts. Laws must be interpreted through regulation. Both must be adaptable to changing circumstances and societal needs. Terms like “clean,” “safe,” “significant impact,” and “public interest” appear across Oregon’s environmental statutes. For example:

- Oregon’s air quality laws rely on the concept of “clean air” defined by DEQ.
- Water quality standards are based on “suitability for beneficial uses” and “harmful concentrations.”
- Land use laws like Goal 5 refer to “protecting significant habitat.”

These are not vague—they are adaptable. The Constitution is designed to provide enduring principles. Implementation happens, as it always does, through the regulatory process and judicial interpretation.

**What would this amendment do that the state isn’t already doing through existing programs like the Climate Protection Program?**

The Climate Protection Program (CPP) is an important regulatory effort—but like all programs created by statute or executive order, it is vulnerable to repeal or rollback. The amendment would elevate the duty to protect the climate from a regulatory priority to a constitutional mandate. It ensures that climate protection cannot be weakened by changes in political leadership. This provides durable protection and long-term clarity.

**What does “Oregon’s public natural resources” mean?**

This phrasing was intentionally modeled after Pennsylvania’s Environmental Rights Amendment. Courts there have interpreted it broadly and flexibly to include air, water, wildlife, forests, public lands, and the atmosphere—resources held in common and vital to the public interest. It’s language that evolves with science, ecological understanding, and public need, as it should.

**Does this amendment apply to private property?**

The amendment affirms the state’s duty to protect *public* natural resources. However, when private activity affects public resources—for example, pollution from private land contaminating public water—the state has an obligation to step in. This is not new; it reflects long-standing principles of regulatory and trustee responsibility.

**What fiduciary duties does this amendment impose on the state?**

The amendment explicitly recognizes the state as a trustee of Oregon’s public natural resources. That role carries fiduciary duties well-established in law, including loyalty, impartiality, prudence, accountability, and the duty to prevent substantial harm. These are the same duties Pennsylvania courts have applied under their constitution’s similar language, and they reflect what the public already expects from government stewardship.

**If these rights are already fundamental, why do we need this amendment?**

The environmental rights recognized in the amendment, and the State’s corresponding obligations as trustees, are fundamental and inherent. However, the *Chernaik* decision made clear that without explicit constitutional language, Oregon’s courts are not enforcing them. Codifying these rights strengthens the ability of all branches of government to act—and prevents future erosion of environmental protections.

### **Will this amendment lead to excessive or frivolous litigation?**

No. Like any constitutional provision, this amendment would only support valid legal claims, and only against the government in cases involving harms and threats to health and safety. Courts are fully capable of identifying and dismissing baseless suits. What the amendment does is create a legal pathway for legitimate challenges when public health, safety, and natural resources are at risk. Only meritorious claims against the government involving are authorized by the amendment.

### **Is this amendment anti-business or anti-development?**

Not at all. The amendment requires that the government fulfill its duty to ensure that development is conducted with appropriate safeguards for public health, safety, and resources. In fact, constitutional clarity can help businesses plan for the long term, knowing that baseline environmental protections will remain stable. It supports sustainable economic development aligned with public health and environmental stability.

### **How would this affect agencies?**

It empowers agencies with the explicit constitutional authority they need to act proactively to protect public, health, safety, and resources. Rather than being reactive to crises, agencies would be empowered to proactively prevent substantial impairment of the environment and harms to public health and safety before they happens. This is a benefit, not a burden.

### **Why not just pass stronger environmental laws instead of amending the Constitution?**

Statutory protections can be repealed or weakened with a single legislative vote. Constitutional rights endure. They offer the strongest legal protection we can provide—especially in a time of increasing environmental uncertainty and political polarization.

### **Isn't Oregon too small to make a difference on global climate change?**

No. Oregon's greenhouse gas emissions are significant and our leadership matters. According to the U.S. Energy Information Administration, in 2022 Oregon produced 37.76 million metric tons of carbon dioxide from fossil fuel combustion for energy— which is greater than the 2022 fossil fuel energy emissions from entire countries like Sweden, Ireland, Switzerland, New Zealand, or Denmark, all of which have higher populations than Oregon. The amendment does not require Oregon to singlehandedly solve the climate crisis, but Oregon must do its part to ensure that its policies do not endanger our youth. And as a state known for its environmental leadership, Oregon has both the moral authority and scientific rationale to lead.

### **Conclusion**

The Right to a Healthy Environment amendment is a powerful yet practical step forward. It doesn't replace existing laws—it strengthens them. It doesn't invent new rights—it makes explicit the rights Oregonians already hold. And it doesn't overburden government—it empowers it to meet the challenges we face with clarity, consistency, and purpose.

We urge you to support SJR 28-1. Let's give children and future generations the constitutional protection they deserve.

Respectfully submitted,  
*Our Children's Trust*