

Jennifer Navarro
Brunswick
LD 2239

Testimony of Jennifer Navarro
Neither For Nor Against (On Question Clarity and Neutrality)
LD 2239 – Judiciary Committee

Chair, Members of the Judiciary Committee:

Good morning. My name is Jennifer Navarro, and I am a resident of Brunswick.

I am testifying neither for nor against LD 2239. My testimony is focused specifically on the clarity and neutrality of the ballot question that may be presented to Maine voters.

Ballot questions serve a very specific function. They are not intended to advocate for or against a policy. Their purpose is to present a proposed legal change in a way that is clear, concise, and neutral, so that voters can make an informed and independent decision.

In reviewing the current draft question, I identified three concerns.

First, the question combines multiple policy areas—both participation in school athletic programs and access to school facilities—into a single sentence. These are distinct regulatory issues, and combining them can make it more difficult for voters to clearly understand what they are being asked to decide.

Second, the wording includes language that may be interpreted as outcome-oriented rather than purely descriptive. Specifically, phrasing tied to a child’s original birth certificate may function as more than a neutral definition and could be perceived as framing the effect of the policy rather than simply describing its structure.

Third, the question does not appear to track the structure of the legislation as closely as it could. When legislation establishes definitions or eligibility criteria, ballot questions are typically strongest when they reflect that structure in straightforward, statutory terms.

In addition to neutrality, there is also a voter comprehension concern. When a question is complex or combines multiple elements, it increases the risk that voters may interpret it differently or misunderstand its scope. That, in turn, can affect the reliability of the result.

A more effective approach would be to use simpler, more direct language that describes the legal change without interpretation. For example, framing the question in terms of establishing eligibility criteria based on definitions in the legislation would improve both neutrality and clarity.

My purpose in raising these points is not to take a position on the policy itself, but to emphasize the importance of ensuring that any ballot question presented to voters meets the standards of neutrality and clarity that support a fair and reliable public process.

Thank you for your time and consideration.

Jennifer Navarro
Brunswick Resident _____

I have submitted the opposition letter below to Department of the Secretary of State.

Testimony of Jennifer Navarro
In Opposition/Support/Neither (choose one strategically)
LD 2239
Judiciary Committee
April 14, 2026

Formal Comment on Draft Ballot Question Wording (LD 2239)

I submit this comment regarding the draft wording of the proposed ballot question associated with LD 2239.

I. Applicable Standard

Under Maine law and established practice, ballot questions must be presented in a manner that is clear, concise, and neutral, enabling voters to understand the substance of the proposed measure without being influenced by phrasing that suggests a particular interpretation or outcome. The Secretary of State has an affirmative responsibility to ensure that ballot language does not contain argumentative framing, embedded assumptions, or compound structures that may impair a voter's ability to render an independent judgment.

This standard is consistent with principles reflected in Maine administrative and constitutional practice, including the requirement that public decision-making processes be conducted in a manner that is fair, impartial, and not misleading. See, e.g., 30-A M.R.S. § 2691(3).

II. Identified Deficiencies in the Draft Question

The current draft does not appear to satisfy the neutrality requirement for the following reasons:

1. Compound Structure (Multiple Policy Components)

The question combines distinct subject matters—participation in school athletic programs and access to school facilities—within a single inquiry. These are separate regulatory domains and, when presented together, may obscure the scope of the proposed legal change and limit the clarity of the response.

2. Use of Potentially Interpretive or Outcome-Oriented Language

The phrase referencing restrictions “based on the gender on the child’s original birth certificate” introduces wording that may be read as both definitional and outcome-framing. Rather than neutrally describing statutory criteria, this phrasing risks conveying an interpretive characterization of the policy effect.

3. Lack of Direct Alignment with Statutory Framing

Ballot questions should reflect the operative structure of the legislation itself. Where legislation establishes definitions or eligibility criteria, the ballot question should describe that action in neutral terms (e.g., “establishing criteria” or “defining eligibility”) rather than embedding descriptive or contextual language that may influence perception.

III. Clarity and Voter Comprehension Concerns

In addition to neutrality, the current draft raises concerns regarding voter comprehension. Ballot questions must be structured so that an average voter can readily understand the scope and effect of the proposed change without needing to interpret complex or compound phrasing.

The combination of multiple policy areas within a single sentence, together with terminology that may carry interpretive weight, increases the risk of voter confusion. When clarity is reduced, the reliability of the resulting vote may be affected because responses may reflect misunderstanding rather than informed judgment.

A clearer structure—using simplified, non-compound phrasing and neutral terminology—would better support voter comprehension and improve the accuracy of public input.

IV. Recommended Revisions

To conform with neutrality and clarity standards, the ballot question should:

- Describe the proposed legal change in general, statutory terms (e.g., “establishing eligibility criteria” or “defining terms in law”);
- Avoid combining multiple policy components where such combination may reduce clarity;
- Eliminate phrasing that could be interpreted as characterizing the effect of the law rather than describing its structure;
- Use clear, straightforward language that allows voters to understand the proposal without additional interpretation.

V. Suggested Neutral Revision (for Consideration)

“Do you want to change state law regarding eligibility for participation in school athletic programs and access to school facilities by establishing criteria based on sex as defined in the legislation?”

This proposed language is offered as an example of a more neutral and comprehensible formulation. It focuses on the existence and scope of the statutory change without incorporating phrasing that may be construed as interpretive or leading.

VI. Conclusion

Ensuring both neutrality and clarity in ballot language is essential to preserving the integrity of the public process. A question that is structurally clear, easily understood, and free from interpretive phrasing better ensures that public responses reflect informed and independent judgment.

For these reasons, revision of the current draft is warranted.

Thank you for your consideration.

Respectfully submitted,
Jennifer Navarro
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