

LIZ KRUEGER
SENATOR, 28TH DISTRICT

ALBANY OFFICE
STATE CAPITOL BUILDING
ROOM 416
ALBANY, NEW YORK 12247
(518) 455-2297
FAX (518) 426-6874

DISTRICT OFFICE
211 EAST 43RD STREET, STE. 2000
NEW YORK, NEW YORK 10017
(212) 490-9535
FAX (212) 499-2558

E-MAIL
LKRUEGER@NYSenate.GOV

NEW YORK
STATE
SENATE
ALBANY, NEW YORK 12247



CHAIR, MAJORITY MEMBER
FINANCE

COMMITTEES:
RULES
BUDGET & REVENUE

July 22, 2024

New York State Board of Elections
40 North Pearl Street
Suite 5
Albany, NY 12207

Dear Members of the Board:

We, the undersigned members of the State Senate, write to submit public comments regarding the draft ballot language of Proposal Number One, an Amendment, which will be the first ballot measure voted on since the “plain language” ballot readability legislation was enacted in 2023. Based on the requirements of Election Law 4-108, we strongly urge the BOE Commissioner to revise the draft ballot language to clearly and accurately describe the practical impact of the amendment and achieve an Automated Readability Index (ARI) score of 8 or below.

When New York voters are asked to support or reject essential ballot measures that propose changes to New York laws, policies, and practices that will impact their lives, it is critical that they are able to understand the proposals before them. Yet, previous ballot measures have required voters to have college-level reading comprehension ability. Last year, New York joined twenty-one other states in addressing this voting access issue by enacting legislation to ensure ballot measure readability. Proposal Number One on this year’s ballot will be the first time this new law is applied, and it is critical to establish solid precedent.

In addition to setting a strong precedent, we stress the importance of getting the language right because this constitutional amendment impacts the lives of all New Yorkers. The Equal Rights Amendment protects New Yorkers from discrimination based on ethnicity, national origin, age, disability, and sex, including sexual orientation, gender identity, gender expression, pregnancy, pregnancy outcomes, and reproductive healthcare and autonomy. When many of these rights are under attack in the United States, voters must understand what this ballot measure means before casting their vote. There is a genuine concern that voters will otherwise abstain from voting or vote based on a misunderstanding of the ballot measure.

The New York State Board of Elections (BOE) proposes the following text of Proposal Number One, which has an Automated Readability Index (ARI) score of 14:

Adds Certain Protections to the State Bill of Rights

Adds anti-discrimination provisions to State Constitution. Covers ethnicity, national origin, age, disability, and sex, including sexual orientation, gender identity and pregnancy. Also covers reproductive healthcare and autonomy.

A “YES” vote puts these protections against discrimination in the New York State Constitution.

A “NO” vote leaves these protections out of the State Constitution.

Upon reviewing the draft ballot proposal and considering the context for this constitutional amendment, we respectfully submit the following concerns about the draft language:

The Draft Ballot Measure Language May Be Confusing or Misunderstood

The BOE has acknowledged that the ARI score of 14 “represents the New York State Board of Elections’ best efforts to present the details” of the proposed amendment, and has stated that, “...enacting legislation for the Proposition includes a list of protected classes, all of which would be added to the Constitution if approved. These terms must all be included in the Proposition language to ensure voters are fully informed of the proposed additions.”

We appreciate that BOE has included all of the protected classes in the ballot measure text; however, Election Law 4-108 does not stipulate that the exact language of the policy change must be incorporated in the ballot language. In fact, the law states that the change in policy must be written in plain, “easily comprehended” language.

We assert that the meaning of certain legislative language will not be apparent to voters, many of whom will see the ballot measure for the first time when they vote. Terms such as “anti-discrimination provisions” and “reproductive autonomy” are examples of language that may be confusing or misunderstood. We strongly urge the BOE to provide plain language alternatives to legislative terminology, which will help to achieve a readability score that is closer to 8.

The Final Ballot Measure Language Must Include The Words “Abortion” and “LGBT”

Over the years, New York State has positioned itself as a leader in the fight for abortion rights and access to abortion care, as well as LGBT rights. When the U.S. Supreme Court overturned *Roe v. Wade*, eliminating the federal right to abortion, the NYS Legislature passed the Equal Rights Amendment with the explicit purpose of bolstering protection of abortion rights at the state level, as well as establishing protection from discrimination for other classes of NYS residents. At a time when abortion rights are in jeopardy, voters must understand Proposal Number One will protect abortion rights in the state constitution. This critical point may be lost, however, if the word “abortion” is not included in the ballot language.

Regarding LGBT protections, the draft ballot measure states that the amendment adds protections against discrimination based on a person’s sex, including “sexual orientation” and “gender identity.” These terms are not commonly used in everyday conversation and are likely to be misunderstood. This can be addressed by using the term “LGBT” instead.

Proposal Number One: Alternate Ballot Language

Based on the concerns mentioned above, we submit the following ballot language for you to consider, which has an ARI score of 8. This proposed language incorporates more commonly used terms to describe the protected classes and eliminates potentially confusing legislative terminology. Of particular importance, the proposed language includes the terms “abortion” and “LGBT”.

Adds Certain Protections to the State Bill of Rights

Changes the State Constitution to protect more people from unfair treatment. Covers where they come from, their age, disability, sex, LGBT identity, pregnancy, and abortion choices.

A “YES” vote adds these protections to the State Constitution.

A “NO” vote leaves them out.

Thank you for the opportunity to provide comments and for your attention to this critical matter.

Sincerely,



Liz Krueger
28th Senate District

Andrea Stewart-Cousins
Senate Majority Leader

Jamaal Bailey
36th Senate District

Jabari Brisport
25th Senate District

Samra Brouk
55th Senate District

Iwen Chu
17th Senate District

Leroy Comrie
14th Senate District

Jeremy Cooney
56th Senate District

Nathalia Fernandez
34th Senate District

Michael Gianaris
12th Senate District

Kristen Gonzalez
59th Senate District

Andrew Gounardes
26th Senate District

Pete Harckham
40th Senate District

Michele Hinchey
41st Senate District

Brad Hoylman-Sigal
47th Senate District

Robert Jackson
31st Senate District

John Liu
16th Senate District

John Mannion
50th Senate District

Rachel May
48th Senate District

Shelley Mayer
37th Senate District

Kevin Parker
21st Senate District

Roxanne Persaud
19th Senate District

Jessica Ramos
13th Senate District

Gustavo Rivera
33rd Senate District

Julia Salazar
18th Senate District

James Sanders
10th Senate District

Luis Sepulveda
32nd Senate District

José Serrano
29th Senate District

James Skoufis
42nd Senate District

Toby Ann Stavisky
11th Senate District

Kevin Thomas
6th Senate District

Leah Webb
52nd Senate District