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Testimony of Representative Erin Sheehan introducing  
LD 942 - An Act to Ensure the Collection of Complete Information by Adding a 3rd  
Option for Gender on State Forms  
before the Joint Standing Committee on Judiciary  
March 28, 2023

Senator Carney, Representative Moonen and Esteemed Colleagues of the Joint Standing Committee on Judiciary, my name is Erin Sheehan and I represent part of Biddeford. Today, I'm pleased to introduce LD 942 "An Act to Ensure the Collection of Complete Information by Adding a 3rd Option for Gender on State Forms."

In 2018, a Maine court ordered the Bureau of Motor Vehicles to begin issuing state ID cards and drivers' licenses with the option of a third Gender Marker 'X.' This change advanced State recognition of Mainers whose gender identities had been excluded under rules that offered 'M' and 'F' as the only options. For those unfamiliar with Gender Marker X, it is a marker used by primarily by people who identify as nonbinary— whose gender identity and expression is not accurately reflected by 'M' or 'F.' It is also sometimes used by intersex people, who are born with genetic and physical sex characteristics that do not conform to binary classifications of male or female bodies.

The change implemented by the BMV enhanced the safety of nonbinary and intersex Mainers by ensuring that the identification they rely on every day aligns with

and accurately informs how they are perceived by others. LD 942 is intended to advance the safety of nonbinary Mainers in their dealings with the full range of State institutions.

Furthermore, passage of this bill would advance the accuracy and completeness of the data sets that the State's departments and agencies collect. Maine relies on those numbers to evaluate and improve a wide variety of programs that keep Mainers healthy, housed, employed, educated, and safe. It's important that the forms our departments rely on collect complete information to ensure robust analysis, as well as cost-effective and appropriate services.

Finally, passage of LD 942 would help the State of Maine avoid costly litigation. In 2020, a Federal Appeals Court found in *Zzyym v. Pompeo* that the binary gender marker system was arbitrary and capricious and ordered that the plaintiff be issued a passport with the X Gender Marker.

I'd like to thank Maine Transgender Network and the coalition of advocates who patiently educated me on the importance of this bill as well as representatives from the Department of Administrative and Financial Services, who worked with the advocates to craft a timely, achievable, and cost-effective path forward for the changes proposed. These will require an amendment, which will be available in advance of the work session, and which will:

- Charge DAFS with compiling an inventory of where gender is only collected in a binary
- Where updates are not workable on the timeline specified in the draft, DAFS shall report back with an inventory and plan to Judiciary in the short session
- Add a requirement that all new computer systems and forms that use gender must include X from the start.

Thank you for your consideration of this proposal. I will do my best to answer any questions you may have, but may defer to the experts who will follow me.