



# LEGISLATIVE BULLETIN



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## Sharing is Caring; Revenue That Is

The amount of state sales and income tax revenue shared with municipalities is a topic that will be discussed by members of both the Appropriations and Taxation Committees over the next several weeks.

The state's appropriators will have an opportunity to restore revenue sharing to historic funding levels through LD 221, Gov. Janet Mills' proposed FY 22 – FY 23 budget, which establishes revenue sharing at 3.75% in both years of the biennium. The members of the Taxation Committee will have their opportunity to weigh-in on this municipally important issue via three bills that received a public hearing on Tuesday.

LD 328, *An Act To Fully Fund and Restore State-Municipal Revenue Sharing*, sponsored by Rep. Thom Harnett of Gardiner and LD 409, *An Act To Provide Funding To Restore Fully State-Municipal Revenue Sharing*, sponsored by Rep. Walter Riseman of Harrison seek to increase revenue sharing distributions to 5% retroactively to Jan. 1, 2021. An amended

version of LD 403, *An Act To Assist Service Center Communities by Adjusting State-Municipal Revenue Sharing*, sponsored by Rep. Colleen Madigan of Waterville, increases the amount of revenue shared with service center communities to 4.75% in FY 22 and FY 23.

In addition to the bill's sponsors, municipal officials from the cities of Bangor, Portland, South Portland and Waterville, MMA, the Mayors' Coalition, Maine Education Association, Maine Economic Policy Center, Maine Service Employees' Association and Maine AFL-CIO provided support for increased funding. Municipal officials spoke to how losses in revenue sharing have manifested detrimentally in municipal budgets. In many communities infrastructure improvements were delayed, employees were laid off, and positions were eliminated while property tax and fee increases were implemented in order to continue to provide necessary services.

In addition, many of the proponents ex-

pressed a belief that it is not too much to ask that 5% of state sales and income tax revenues be shared with local government partners. This is especially true when taking into account that property taxpayer investments in locally implemented economic development efforts help to generate roughly \$3.5 billion in state sales and income tax revenue annually.

On behalf of the Mills Administration, the Department of Administrative and Financial Services (DAFS) provided testimony in opposition to the bills out of concern that implementation will create a significant shortfall in the biennial budget. DAFS also pointed to the increases made to revenue sharing and the homestead exemption in the previous biennial budget as acknowledgement of the important role of municipal governments.

Although the Appropriations Committee has just begun to work on elements of the budget, the Taxation Committee will hold a work session on all three bills on Thursday, March 18 at 9:30 a.m.

## LEGISLATIVE BULLETIN

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## The Pine Tree Amendment Grows Roots

LD 489, *RESOLUTION, Proposing An Amendment to the Constitution of Maine to Establish a Right to a Healthy Environment*, otherwise known as the Pine Tree Amendment, received its first public hearing before the Committee on Environment and Natural Resources this week. The broad amendment would give all Mainers the inalienable right to a clean, healthy and scenic environment and make all jurisdictions in the state responsible for protecting that right.

The public hearing attracted dozens of contributions of oral and written testimony representing the multitude of views held by

current and past legislators, engaged citizens, state departments and agencies, religious organizations and other interested parties.

Support for the bill came in the form of vivid natural imagery and appeals to one's dependence on a clean environment. There were calls also to protect Maine for future generations to enjoy and propel the state into the forefront of the environmental movement.

For many supporters, this amendment is more than a shield for the environment. Testimony included hope that the amendment might bolster natural resources and protect the livelihood of thousands of Mainers, make

*(continued on page 2)*

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## Defining Shoreland Zoning for Municipal Management

On Monday, the Committee on Environment and Natural Resources held a work session on LD 390, *An Act Regarding the Mapping of Shoreland Zones*, sponsored by Rep. Anne Perry of Calais.

The bill as drafted was a result of extensive engagement from the sponsor with planners from Washington County Council of Governments, as well as environmental scholars housed at the University of Maine in Machias. The intended goal of the proposal was to make it easier for municipal officials to understand the complex regulatory burden placed upon them for the zoning and enforcement of state and federal shoreland development regulations.

Municipal officials using tools like Geographic Information System (GIS) mapping data to inform their local planning decisions, find the current statute and state guidelines contain definitions that are both ambiguous

to interpret and difficult to use when creating municipal shoreland zoning maps. Such maps are often informed by on the ground detailed field work, which is far more accurate than the data sets provided through state and federal resources.

Supporting the bill's intent, MMA focused the committee on the disconnect between the growing complexity of environmental regulation without corresponding allocation of state resources dedicated to those who carry out the duty. State oversight for shoreland zoning rules is often obtained as a "permit by rule," which results in a documentary review of an application and collection of a fee at the state level, but little more.

In its supporting testimony, the Androscoggin Valley Council of Governments echoed the problem of developing maps to assist municipalities which sit at the nexus of the required federal agency rules that rarely

coincide with state law. Supporters urged the committee to understand the intent is not to relax regulation, but to make it more applicable and allow for quality data to guide natural resources protection decisions.

The seven groups that testified in opposition to the bill, including the Department of Environmental Protection, believe that changing definitions to make them easily understandable or to fit a specific evolving digital tool could have a host of unintended consequences.

In a unanimous vote of those present, the committee voted "ought not to pass" on LD 390 with specific direction that the department work with stakeholders to find a solution that retains and supports wetland protective efforts, while making it easier for those charged with the responsibility to do so.

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### *The Pine Tree Amendment Grows Roots (cont'd)*

Maine a premier eco-tourism destination, and mitigate the unwanted effects of climate change.

Also testifying in support of the bill was Green Amendments for the Generations, an organization pushing similar amendments forward in other states. Even though many states are considering the amendment, only two others, Montana and Pennsylvania, have similar environmental rights protected in their Article I Bill of Rights.

The bill was lauded for its umbrella protection over the environment that state and federal entities have failed to protect for decades. According to the bill's sponsor, Sen. Chloe Maxmin of Lincoln County, Mainers have waited too long for government to step up, and in the interim severe damage has been done to Maine's environment, natural resource industries, and recreation. Sen. Maxmin professed, "The intent of this language is to hold government accountable, to ensure that all Mainers have a right to a healthy environment."

The language of the amendment is where sentiment begins to vary.

The amendment's vague language was defended as clear legal guidance that would

not invite legal challenges between neighbors. On this matter, MMA disagreed.

The Association testified in opposition to LD 489 on the grounds that the lack of legal precedent and case law could generate substantial litigation costs for all government jurisdictions and potentially impede the progress of governments trying to protect Maine's environment. This amendment transforms every person, private entity, and government jurisdiction into a potential plaintiff or defendant and opens the door to the environmental agendas of everyone.

As written, the bill broadens the scope of environmental impact to such a degree that practically any development or planning decision could be called into question for its impact to the "scenic and healthful qualities of the environment." This vagueness would hold municipalities to impossible standards.

As drafted, the bill could open municipalities to claims of negligence or malfeasance from any party. Interest groups, businesses, and citizens would be able to initiate litigation against a municipality based on wide interpretations of the bill's ambiguous language. Given the breadth of the rights established under the bill, local expenditures would in-

crease significantly as litigation could drag on for years before case law is settled the constitutional provision.

MMA asserted that local government is already striving to protect the environment and wants to do more. It is the lack of funding and planning capacity combined with cumbersome permitting from federal and state entities that stands in the way of many municipal efforts to protect the environment. Removing these obstacles would be easier and more efficient than enacting a constitutional amendment that may take decades until case law clarifies the vague language used.

If LD 489 is approved, municipalities will be engulfed in planning decisions with too many unknowns, while costly litigation could either drain local funds away from innovative solutions or force them to just roll-over to deeper pockets. Future planning could be determined by who wins in court, not by locally desired outcomes. Even then, those rulings and standards could be challenged.

Constitutional amendments require two-thirds approval in both the Senate and House, before going to Maine voters on a statewide ballot. A work session for LD 489 is scheduled at 11:00 a.m. for March 17.

## IN THE HOPPER

### Agriculture, Conservation & Forestry

LD 524 – An Act To Require Schools To Submit Pest Management Activity Logs to the Board of Pesticides Control and the Posting of Inspection Results for the Purpose of Providing Information to the Public. (Sponsored by Sen. Daughtry of Cumberland Cty.)

This bill requires a school to maintain a pest management pesticide use activity log and to annually submit a copy of the log to the Board of Pesticides Control. The bill further directs the board to post the collected school reports and a list of all board inspections of a school's use of pesticides and the results of those inspection on a publicly accessible website.

### Criminal Justice & Public Safety

LD 661 – An Act To Ensure Equity in Petitions for Rulemaking under the Maine Administrative Procedure Act. (Sponsored by Rep. Talbot Ross of Portland)

This bill requires the Department of Corrections to initiate appropriate rule-making proceedings upon receipt of a petition from 150 inmates or 25% of the total male or female population of a correctional facility or county or municipal detention facility, whichever is fewer.

### Education & Cultural Affairs

LD 705 – Resolve, To Improve Air Quality and Ventilation in Maine's Public Schools. (Sponsored by Rep. Millett of Cape Elizabeth)

This resolve directs the Department of Education to adopt major substantive rules governing air quality and ventilation in all public schools and apply the standards no earlier than July 1, 2022 and no later than July 1, 2026. The department is directed to present the provisionally adopted rules for final adoption to the Education and Cultural Affairs Committee by Jan. 4, 2022.

### Energy, Utilities & Technology

LD 920 – An Act To Promote Oversight of and Competitive Parity among Video Service Providers. (Sponsored by Rep. Kessler of South Portland)

This bill amends the laws governing municipal cable television systems and franchise authority to clarify that existing laws also apply to video service providers (VSP), which as defined in the bill includes cable system operations. The bill also: (1) prohibits a VSP from providing services within a municipality unless the provider has entered into a franchise agreement or contract; (2) requires a VSP to pay the municipality on a quarterly basis 5% of the annual revenue generated from operations in the community; (3) clarifies that all costs associated with public, educational, governmental (PEG) facility equipment and used to maintain PEG access channels within the franchising municipality, including technology upgrade costs are the responsibility of the VSP, over and above payments of required franchise fees; (4) authorizes the Public Utilities Commission (PUC) to oversee and enforce provisions relating to the municipal franchising of VSP and assess a fee not to exceed 25 cents per month per subscriber to pay for administrative costs; (5) authorizes the Attorney General, as well as a municipality to bring an enforcement action against a noncompliant VSP under the Maine Unfair Trade Practices Act; (6) clarifies that existing consumer protection provisions apply; and (7) establishes a resolution process overseen by the PUC for disputes that arise between a franchising municipality and a VSP.

### Environment & Natural Resources

LD 802 – An Act To Ensure Decommissioning of Solar Energy Developments. (Sponsored by Sen. Black of Franklin Cty.)

This bill requires a person to obtain approval of a decommissioning plan from the Department of Environmental Protection or from the Maine Land

Use Planning Commission in the case of a solar energy development located in the unorganized and deorganized areas before constructing or operating a solar energy development with ground-mounted solar panels occupying three or more acres.

### Innovation, Development, Economic Advancement & Business

LD 857 – An Act To Create a Municipal Grant Program To Promote Sustainable Economic Development. (Sponsored by Rep. Bailey of Gorham)

This bill establishes a fund to provide competitive grants funding for cities and towns for projects that further the goals of sustainable economic development as outlined by the Maine Economic Growth Council in the council's annual "Measures of Growth" report and by the economic development strategy for the state as administered by the Department of Economic and Community Development. The bill provides for the transfer of \$250,000 in fiscal year 2021-22 from state-municipal revenue sharing to support the fund.

### Judiciary

LD 725 – An Act To Improve Transparency in State Code and License Violations by Making Public the Names of Complainants. (Sponsored by Rep. Dillingham of Oxford Cty.)

This bill requires under the Freedom of Access Act the name or identity of any person who files a complaint alleging a violation of an order, code, license provision or any other requirement placed upon a person by a government official or agency under the laws or rules of the state or any government subdivision to be made public upon request.

LD 793 – An Act To Include as a Factor in Sentencing the Selection of a Victim Based on the Victim's Employment as a Law Enforcement Officer. (Sponsored by Sen. Davis of Piscataquis Cty.)

Current law on sentencing in criminal cases allows consideration of the selection of the victim based on bias against certain specific populations. This bill adds to the list of biases the employment of the victim as a law enforcement officer.

### Labor & Housing

LD 824 – An Act To Extend the Protections Provided to State Employees upon the Expiration of Labor Contracts to Other Public Sector Employees. (Sponsored by Sen. Claxton of Androscoggin Cty.)

This bill extends the same state employee protections to municipal, judicial and public higher education employees that require employees to remain eligible for and receive merit or step increases in accordance with the terms and conditions set forth in an expired collective bargaining agreement, during the period between the expiration of one contract and the adoption of a new contract.

**NOTE:** You should check your newspapers for Legal Notices as there may be changes in the hearing schedule. Weekly schedules for hearings and work sessions can be found on the Legislature's website at: <http://legislature.maine.gov/calendar/#Weekly/>.

Due to COVID-19 related restrictions (and until further notice), all public hearings and work sessions will be conducted remotely. Municipal officials interested in providing live remote testimony will need to email [lio@legislature.maine.gov](mailto:lio@legislature.maine.gov) or call (207) 287-1692 no later than 5 p.m. the day before the hearing for information on how to participate. Comments on bills can be submitted in advance of a public hearing using the Legislature's testimony submission form ([Online Testimony Submission \(mainelegislature.org\)](http://mainelegislature.org)) and interested parties can view committee proceedings, both live and recorded, on the Legislature's YouTube channel ([News | Maine State Legislature](https://www.youtube.com/channel/UC...)).

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# HEARING SCHEDULE

For the week of March 15, 2021

## MONDAY, MARCH 15

**Environment & Natural Resources**  
**Room 216, Cross Building, 10:00 a.m.**  
**Tel: 287-4149**

LD 226 – An Act To Limit the Use of Hydrofluorocarbons To Fight Climate Change.

LD 602 – An Act To Prevent Pollution from Single-use Plastic Straws, Splash Sticks and Beverage Lid Plugs.

**Inland Fisheries & Wildlife**  
**Room 206, Cross Building, 10:00 a.m.**  
**Tel: 287-1338**

LD 569 – An Act To Prohibit Hunting with a Bow within 100 Yards of a Building or Residence.

LD 626 – An Act To Clarify Temporary Mooring Privileges for Moorings on Inland Waters.

**Labor & Housing**  
**Room 202, Cross Building, 10:00 a.m.**  
**Tel: 287-1331**

LD 616 – An Act To Increase Accountability for Wage Violations.

**State & Local Government**  
**Room 214, Cross Building, 10:00 a.m.**  
**Tel: 287-1330**

LD 584 – Resolve, To Establish the Commission To Study the Reduction of Unfunded and Outdated Municipal Mandates.

LD 621 – An Act To Increase the Number of Franklin County Commissioners.

**Veterans & Legal Affairs**  
**Room 437, State House, 9:00 a.m.**  
**Tel: 287-1310**

LD 658 – An Act To Provide Funding for 3 Veterans Services Officers in the Maine Bureau of Veterans' Services.

**10:00 a.m.**

LD 479 – An Act To Ban Foreign Campaign Contributions and Expenditures in Maine Elections.

LD 641 – An Act To Prohibit Contributions, Expenditures and Participation by Foreign Nationals To Influence Referenda.

## TUESDAY, MARCH 16

**Energy, Utilities & Technology**  
**Room 211, Cross Building, 9:00 a.m.**  
**Tel: 287-4143**

LD 249 – An Act to Eliminate the Current Net Energy Billing Policy in Maine.

**1:30 p.m.**

LD 551 – An Act To Accelerate Weatherization Efforts in the State.

LD 597 – An Act To Establish the Wood Energy Investment Program.

LD 667 – An Act To Create Synergy between Maine Industry and Maine's Energy Goals in the Use of Certain Funds by the Efficiency Maine Trust.

**Transportation**  
**Room 126, State House, 1:00 p.m.**  
**Tel: 287-4148**

LD 644 – An Act Regarding Motor Vehicle Registration Violations.

LD 662 – An Act To Provide Chiefs of Police the Discretion To Allow the Use of Light Bars on Emergency Vehicles.

## WEDNESDAY, MARCH 17

**Health & Human Services**  
**Room 209, Cross Building, 10:00 a.m.**  
**Tel: 287-1317**

LD 601 – An Act Regarding Indices of Vital Records.

**Judiciary**  
**Room 438, State House, 10:00 a.m.**  
**Tel: 287-1327**

LD 363 – An Act Regarding the Statute of Limitations for Injuries or Harm Resulting from Perfluoroalkyl and Polyfluoroalkyl Substances.

LD 560 – An Act To Amend the Safe Haven Laws.

LD 627 – An Act Relating to the Statute of Limitations for Injuries or Harm Resulting from Perfluoroalkyl and Polyfluoroalkyl Substances.

**1:00 p.m.**

LD 589 – An Act To Provide Access to Justice for Victims of Child Sexual Abuse.

## THURSDAY, MARCH 18

**Agriculture, Conservation & Forestry**  
**Room 214, Cross Building, 9:00 a.m.**  
**Tel: 287-1312**

LD 471 – An Act To Require Legislative Approval for Certain Leases of Public Lands.

LD 568 – An Act To Establish a Working Farmland Access and Protection Program within the Department of Agriculture, Conservation and Forestry and a Working Farmland Access and Protection Fund within the Land for Maine's Future Program.

**Judiciary**  
**Room 438, State House, 10:00 a.m.**  
**Tel: 287-1327**

LD 563 – Resolve, To Create the Criminal Records Review Committee.

LD 622 – An Act To Prohibit Marriage of Any Person under 18 Years of Age.

(The bill summaries are written by MMA staff and are not necessarily the bill's official summary statement or an excerpt from that summary statement. During the course of the legislative session, many more bills of municipal interest will be printed than there is space in the *Legislative Bulletin* to describe. Our attempt is to provide a description of what would appear to be the bills of most significance to local government, but we would advise municipal officials to also review the comprehensive list of LDs of municipal interest that can be found on MMA's website, [www.memun.org](http://www.memun.org).)

**Taxation**

**Room 127, State House, 1:00 p.m.**

**Tel: 287-1552**

LD 191 – An Act To Permit Municipalities To Provide Assistance to Veterans in Paying Property Taxes.

LD 534 – An Act To Allow Tax Abatements for Catastrophic Loss.

**Transportation**

**Room 126, State House, 1:00 p.m.**

**Tel: 287-4148**

LD 284 – An Act To Provide That Inspections of New Motor Vehicles Are Valid for 2 Years.

LD 354 – An Act To Require Motor Vehicle Inspections Every 2 Years.

LD 431 – An Act To Repeal the Requirement That Certain Motor Vehicles Be Inspected.

LD 490 – An Act To Eliminate Certain Motor Vehicle Inspections in the State.

LD 565 – An Act To Study the Fee Structure for Motor Vehicle Inspections as It Relates to the Viability of Inspection Stations.

LD 712 – An Act To Eliminate the Requirement for an Inspection for a Noncommercial Vehicle Less Than 20 Years Old.

**FRIDAY, MARCH 19**

**Veterans & Legal Affairs**

**Room 437, State House, 9:00 a.m.**

**Tel: 287-1310**

LD 638 – An Act To Ensure the Timely and Transparent Delivery of Unofficial Election Results in Maine.

LD 706 – Resolution, Proposing an Amendment to the Constitution of Maine To Lower the Voting Age to 16 Years of Age.

**Concept to Study Increased County Authority**

Concept drafts are the bane of advocates for transparency, and often lead to a public hearing where the intent of the sponsor is only clarified and unveiled through their testimony. The Committee on State and Local Government held a public hearing on Monday, on just such a concept draft bill with only aspirational language to evaluate the need for LD 462, *An Act To Reexamine the Relationship among County, Municipal and State Governments*, sponsored by Rep. Michael Sylvester of Portland.

While the language included on the printed draft pointed at growing county authority to provide regional leadership in various areas, including health care, education, data collection and workforce development,” the intent from the sponsor deviated slightly from those providing testimony in support of the measure. Rep. Sylvester advised the committee he felt a study was in order to address concerns he heard under pandemic conditions where he felt counties may be better placed to play a pivotal role on behalf of the state for distribution or collection of data for unemployment services, health care provisions and other areas where the state had difficulty scaling up to respond to COVID-19 community needs.

Ironically, just prior to the hearing on LD 462, the State and Local Committee held a public hearing on LD 375, *An Act To Create Greater Accountability in the Office of County Sheriff*, listening to a number of serious issues that local authorities encountered when trying to hold elected county sheriffs accountable for egregious ethical and criminal behavior.

Proponents of the study legislation came from York and Cumberland counties. The testimony offered highlighted the number of successful fee-for-services they provide for communities under existing relationships. Counties already have the authority to provide expanded services

for the communities that choose to pay for their efforts but lack the authority to force those services onto communities without expanded state authority. Proponents sought to expand their authority and suggested providing counties with “home rule” to create additional programs.

In opposing the bill, MMA emphasized the existing authority counties have to provide services to communities that trust them to adequately deliver on the public duty. As not all counties are created equal, and since they are funded nearly exclusively by assessment on property taxpayers through an annual bill to their municipalities, officials believe that if this bill is to be enacted, other evaluation tasks should be included. Additional issues deserving a deeper review include the provision of duplicative services such as specialized law enforcement response teams and the absence of direct voter authority to influence county expenditures or intercounty cooperation.

While a study into mechanisms of accountability and inter-governmental relationships may be beneficial, MMA believes legislation crafted to grant more authority to counties would not be holistic nor impartial by its very construction.

GrowSmart Maine echoed the same concern in their neither for nor against testimony that the bill seemed to be pointed to a single conclusion, rather than focused on an agnostic evaluation of existing resources. Maine County Commissioners Association also testified neither for nor against only because there was no language to evaluate at the time of the hearing.

A work session has been scheduled for Monday, March 15, at 10:00 AM, and municipal officials hope the concept of the property taxpayer burden for county services and accountability remain central to any study.



## Maine Municipal Association

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### IN THE HOPPER *cont'd*

#### State & Local Government

LD 805 – An Act To Allow Municipalities To Prohibit Firearms at Voting Places. (Sponsored by Sen. Breen of Cumberland Cty.)

This bill authorizes municipal officers to prohibit the possession and display of firearms at voting places on election day, with exceptions for firearms secured in locked vehicles and certified law enforcement officers.

LD 859 – An Act To Allow Municipalities To Use Ranked-choice Voting in Municipal Elections. (Sponsored by Rep. Berry of Bowdoinham)

This concept draft bill would allow municipalities to use ranked-choice voting in municipal elections.

LD 1051 – An Act To Promote Civic Engagement and Voter Participation for Young People by Lowering the Voting Age for Municipal Elections to 16 Years of Age. (Sponsored by Rep. Morales of South Portland)

Constitutional amendments require two-thirds approval in both the Senate and House before the issue is sent to the voters via referendum for a final say on implementation.

#### Taxation

LD 953 – An Act To Improve Affordable Housing Options and Services To Address Homelessness. (Sponsored by Sen. Deschambault of York Cty.)

This bill permits tax increment financing to be used by a municipality to cover costs associated with the development of affordable housing in and

outside development districts, for the use in supporting housing services for persons who are homeless, and for the purpose of providing an incentive for development within the municipality.

LD 970 – An Act To Base the Motor Vehicle Excise Tax on Actual Sale Price. (Sponsored by Rep. Connor of Lewiston)

This bill provides that for a motor vehicle purchased after Dec. 31, 2022, the motor vehicle excise tax must be based on the purchase price for the motor vehicle if purchased from a new vehicle dealer or a used car dealer. For other motor vehicles, the excise tax continues to be based on the maker's list price.

#### Veterans & Legal Affairs

LD 914 – An Act To Meet the State's Obligation To Pay 55 Percent of Education Costs. (Sponsored by Rep. Tuttle of Sanford)

This bill provides state funding for 55% of the total cost of K to 12 education by applying up to 100% of all lottery and alcohol revenues toward the state's share.

LD 941 – An Act To Protect the Privacy of Absentee Voters. (Sponsored by Rep. Faulkingham of Winter Harbor)

This bill requires an absentee ballot issued to a voter to be wrapped in a blank, opaque sleeve of paper or other material of sufficient thickness to prevent the writing on the ballot from being visible when placed in the ballot's return envelope.