

ADDITIONAL MATERIALS

Agenda
Item #5

Page 1

Final Bid Sheet -Live Auction

Item No.	Item	Value	Left Bid	Final Bid	Who? Or Paddle Number
✓ 1	Honorary Page for the day in Augusta	\$50		45	#13
2	Framed Print (to be determined)	\$50		60	#3
3	Lunch with Larry Bliss & Jane Eberle	\$50	\$350	350	Al Franken
✓ 4	Cruise for 4 on Lucky Catch Cruises (catch your own lobsters)	\$95		110	#13
✓ 5	The Basics --- Day trip w/ H2Outfitters (for two) -- sea kayaking	\$70		90	#7
✓ 6	State flag previously flown over Capitol	\$50		65	#5 NEIL J.
✓ 7	Tickets for 4 to Portland Great Performances w/Dinner <i>Tiempo Libre</i>	\$50		100	#33
✓ 8	Lunch and Afternoon Seaplane flight for 3 with Commissioner Pat McGowan <i>2006</i>	\$125		125	# Linda
9	Day of Beauty for one & 15 tanning sessions <i>Ambrosia</i> <i>Tropical Sun</i>	\$30		75	John Jamison
✓ 10	White Water Rafting Trip for 2 on the Penobscot from Wilderness Expedition	\$25		150	#13
11	Lunch for 2 with the Governor <i>Blainette</i>	\$100	\$650	200	#1 Al Franken
✓ 12	2 Bare Naked Ladies Tickets on Dec 1st & \$50 Gift Certificate at Gritty McDuffs	\$5		100	#23
✓ 13a	Sunday River Weekend Ski Pass for 2)	\$200		225	#13
✓ 13b	Sunday River Weekend Ski Pass for 2	\$200		↓	
✓ 14	Framed Oil on Canvas by Claudia Huges "View from Bug Light Popcorn Clouds"	\$50		200	#12
✓ 15	Catered 4-course meal for 8 in your own home from Barbara's Kitchen	\$50		425	NEIL

✓ 16 Beached at Willard 1015 Select
 ± (3965)

2025 100 # Bliss
 2025 2850
 2025 2950

Page 2

To Pay by Credit Card through Secure Pay Pal

PAID
3/19

Amount	\$ 490
First Name	Nell
Last Name	Jamitson
Billing Address on card - line 2	13 Keryman Circle
Billing Address on card - line 3	
City	Scarborough
St	ME
Zip	04074
Card Type	Visa <input checked="" type="radio"/> AmEx <input type="radio"/> Disc <input type="radio"/>
Credit Card Number	[REDACTED]
Security code (back of card)	690
Expiration Date MM/YYYY	9/08
email address	
Home Telephone	885-5461



Page 3

1397

NEIL D. JAMIESON JR., ESQ, P. A.
PO BOX 1190
SACO, ME 04072

52-7263/2112
BRANCH B

3/19/06

DATE

PAY TO THE ORDER OF

South Portland Domestic Credit

\$ 490.00/100

Four Hundred Ninety Dollars

00/100 DOLLARS



Security Features
Marked on Back

SACO & BIDEFORD
Savings Institution
You know us.

SACO
SCARBOROUGH
SOUTH PORTLAND
OLD ORGRADE BEACH

Neil D Jamieson Jr

FOR

Action

1397

10120116.03212906 >211288637< GREATER PORTLAND

Page 4

ALAN FRANKEN
FRANCES FRANKEN

BANK ONE TRUST COMPANY, NA
COLUMBUS, OH 43271
25-007440

368

~~10/29/2005~~

PAY TO THE ORDER OF THE SOUTH PORTLAND DEMOCRATS

\$ **350.00

Three Hundred Fifty and 00/100*****DOLLARS

THE SOUTH PORTLAND DEMOCRATS

MEMO NON DEDUCTIBLE POLITICAL CONTRIBUTION

Frances Franken

⑈000368⑈

FOR DEPOSIT ONLY

17368-7

09

Page 5

ALAN FRANKEN
FRANCES FRANKEN

BANK ONE TRUST COMPANY, NA
COLUMBUS, OH 43271
25-80/440

366

10/29/2005

PAY TO THE ORDER OF THE SOUTH PORTLAND DEMOCRATS

\$ **650.00

Six Hundred Fifty and 00/100***** DOLLARS

THE SOUTH PORTLAND DEMOCRATS

MEMO NON DEDUCTIBLE POLITICAL CONTRIBUTION W

"000366" [REDACTED]

Frances Franken

09

FOR DEPOSIT ONLY
17368 -

Page 8

17368 TT Begin transaction ID: 2162089

17368 7 DE CASH 50.00 1000.00

CHECKS > 350.00

> 650.00 1050.00 123

End transaction set 0.00

Page 7

SOUTH PORTLAND DEMOCRATIC COMMITTEE ACN: 17368 SSN: 001-01-0000 31OCT06

TRF	TRAN DATE	EFF DATE	TRN-SC	TRAN AMOUNT	FEE/ PNLTY	FINANCE CHARGE	SHARES/ PRINCIPAL	BALANCE	TLR
3-7	08FEB06		DP	39.00			39.00	912.05	163
	** Item #:		CTR						
	10FEB06		DP	1050.00			1050.00	1962.05	109
	** Item #:		CTR						
	28FEB06		DW-V	29.40			-29.40	1932.65	97
	** Item #:		539 Trace #:	11500759					
	15MAR06		DP	275.15			275.15	2207.80	117
	** Item #:		CTR						
	21MAR06		DP	490.00			490.00	2697.80	111
	** Item #:		CTR						
	23MAR06		DW-V	97.37			-97.37	2600.43	97
	** Item #:		540 Trace #:	80000939					

GPM CREDIT UNION
799 BROADWAY
SOUTH PORTLAND, ME 04106

17368 1
01MAR06 31MAR06

Page 2

Phone inquiries to: 207-799-0074

M NO MAIL

CHECK OUT THE FINANCIAL CENTER LINK
ON OUR WEBSITE AND MAKE IT YOUR LINK
TO INSURANCE, INVESTING AND MANY
OTHER FINANCIAL RESOURCES TO HELP
PLAN YOUR FUTURE.

SO. PORTLAND DEMOCRATIC COMMITTEE
ALAN E MILLS
28 JENNIE'S COURT
SOUTH PORTLAND ME 04106-5233

Share	Your balance at the beginning of the period.....	\$	143.91
Account	01MAR Dividend through 28FEB2006	0.06 =	143.97
Suffix 0	ANNUAL PERCENTAGE YIELD EARNED: 0.54% FOR A 28 DAY PERIOD		
	Average Daily Balance: 143.91		
	Your new balance on 31MAR06.....	\$	143.97
	Dividends Paid To You In 2006 On Suffix 0	\$	0.18
	Dividends to be paid on 01APR06	\$	0.06

Share	No. 490757. Balance at the beginning of the period.....	\$	1932.65
Checking	15MAR Deposit	275.15 =	2207.80
Suffix 7	21MAR Deposit	490.00 =	2697.80
	22MAR Withdrawal #540	-97.37 =	2600.43
	1 Withdrawals = 97.37 2 Deposits = 765.15 1 Checks Cleared		
	Your new balance on 31MAR06.....	\$	2600.43
	Dividends Paid To You In 2006 On Suffix 7	\$	0.00

Your	Your total Checking balances.....	\$	2,600.43
Financial	Your total Share balances.....	\$	143.97
Summary			

YTD Tax	YEAR-TO-DATE INFORMATION FOR TAX PURPOSES:		
Summary	Total non-IRA dividends earned		
	(May be reported to IRS as interest for this calendar year)...	\$	0.18

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GPM CREDIT UNION
799 BROADWAY
SOUTH PORTLAND, ME 04106

17368 1
01FEB06 28FEB06

Phone inquiries to: 207-799-0074

M NO MAIL

SO. PORTLAND DEMOCRATIC COMMITTEE
ALAN E MILLS
JOHN JAMIESON
28 JENNIE'S COURT
SOUTH PORTLAND ME 04106-5233

CHECK OUT THE FINANCIAL CENTER LINK
ON OUR WEBSITE AND MAKE IT YOUR LINK
TO INSURANCE, INVESTING AND MANY
OTHER FINANCIAL RESOURCES TO HELP
PLAN YOUR FUTURE.
SEE OUR WEBSITE AND LOBBY FOR
INFORMATION ON THE LATEST BILLPAYER
PROMOTION. THIS IS A GREAT TIME TO
START USING THE FREE SERVICE IF YOU
HAVEN'T ALREADY!

Share account suffix 0	Your balance at the beginning of the period.....\$	143.85
	01FEB Dividend through 31JAN2006	0.06 = 143.91
	ANNUAL PERCENTAGE YIELD EARNED: 0.49% FOR A 31 DAY PERIOD	
	Average Daily Balance: 143.85	
	Your new balance on 28FEB06.....\$	143.91
	Dividends Paid To You In 2006 On Suffix 0	\$ 0.12
	Dividends to be paid on 01MAR06	\$ 0.06

Share	No. 490757. Balance at the beginning of the period.....\$	873.05
Checking	08FEB Deposit	39.00 = 912.05
Suffix 7	10FEB Deposit	1050.00 = 1962.05
	28FEB Withdrawal #539	-29.40 = 1932.65
	1 Withdrawals - 29.40 2 Deposits = 1099.00 1 Checks Cleared	
	Your new balance on 28FEB06.....\$	1932.65
	Dividends Paid To You In 2006 On Suffix 7	\$ 0.00

Your Financial Summary	Your total Checking balances.....\$	1,932.65
	Your total Share balances.....\$	143.91

YTD Tax Summary	YEAR-TO-DATE INFORMATION FOR TAX PURPOSES:	
	Total non-IRA dividends earned	
	(May be reported to IRS as interest for this calendar year) ..\$	0.12

ADDITIONAL MATERIALS
RE: Item #16
March 9, 2007



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commission Members
From: Commission Staff
Date: March 7, 2007
Re: Amended Definition of PAC

At your January 19, 2007 meeting, the Commission approved submitting to the Legislature a bill that would revise the political action committee (PAC) definition and eliminate the §1056-B filing requirement. Upon further consideration, the Commission staff asks for your approval to submit amended legislation. I have consulted with the Commission's Counsel and Assistant Director on these recommendations.

Rationale for New PAC Definition

- The staff continues to prefer PAC registration and reporting as the best method of public disclosure of campaign financial activity because the public has come to think of PACs as the primary way that non-party organizations influence elections. Our electronic filing and disclosure website is designed for PAC reporting, not §1056-B reporting. Once PACs e-file their reports the information is automatically available to the public on our website, and contributions and expenditures are searchable by the public. Also, PACs are required to disclose their primary decision-makers and fundraisers when they register with the Commission. PACs are required to keep financial records concerning their contributions and expenditures for two years.
- We propose to delete from the PAC definition the "funding and transfer mechanism" term in §1052(5)(A)(2), which we have found to be ambiguous and difficult to apply. Paragraphs 5(A)(3) and (4) are redundant, so we propose to eliminate 5(A)(3).
- We recommend that the definition of PAC include organizations that are raising or spending more than \$5,000 to influence candidate elections in Maine even if the organizations do not have as their major purpose influencing Maine state elections. These could include, for example, national so-called 527 organizations, or advocacy organizations based in Maine that have a different major purpose but decide to spend more than \$5,000 to influence candidate elections.
- The staff believes the \$5,000 threshold for non-major purpose organizations would avoid relatively small actors from being caught up in PAC registration and reporting.

- Although the staff prefers PAC reporting to the §1056-B requirement, we have been influenced to recommend keeping the §1056-B requirement for ballot question reporting by the U.S. District Court's Volle v. Webster decision, and by comments from the Maine Association of Nonprofits. We are concerned that it could be burdensome for the state to require individuals or non-profit organizations with a non-political major purpose to form a PAC in order to influence ballot questions, and that those burdens may be unconstitutional.

Proposed Improvements to §1056-B Reporting

- We propose to call the §1056-B requirement a "Ballot Question Report," which is a more descriptive term.
- We believe increasing the §1056-B threshold from \$1,500 to \$5,000 would ease the burden of reporting on small organizations that wish to express their position on a ballot question and that engage in limited financial or staff activity.
- The bill would clarify which contributors must be reported by §1056-B filers.
- If a person or organization gives funds to an intermediary and directs the intermediary to give them to a §1056-B filer, the filer would be required to report the original source of funds as the contributor.
- The proposed statute would require §1056-B filers to keep records for a two-year period similar to PACs. Such record-keeping is not required under current law.
- The staff makes no recommendation on which expenditures should be reported by §1056-B filers. The Legislature is considering conflicting bills on this subject.

Thank you for your consideration of this change in direction recommended by the staff.

Amended PAC definition proposed by
Commission staff for 3/9/07 meeting

21-A M.R.S.A. §1052(5). Political action committee. The term "political action committee:"

A. Includes:

- (1) Any separate or segregated fund established by any corporation, membership organization, cooperative, or labor, or other organization whose purpose is to influence the outcome of an election, including a candidate or question;
- ~~(2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;~~
- ~~(3) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and~~
- (4) Any organization, including any corporation or association, that has as its major purpose initiating, promoting, defeating, or influencing a candidate election, campaign, or ballot question advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and that spends more than \$1,500 in a calendar year for that purpose, to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition, including for the collection of signatures for a direct initiative or referendum, in this State; and
- (5) Any organization that spends more than \$5,000 in a calendar year for the purpose of promoting, defeating or influencing in any way the nomination or election of any candidate to political office but that does not have as its major purpose promoting, defeating, or influencing candidate elections; and

B. Does not include:

- (1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;
- (2) A candidate's authorized political committee under section 1013-A, subsection 2; or
- (3) A party committee under section 1013-A, subsection 3.

21A § 1056-B. Ballot question reports, of contributions and expenditures by persons

Any person not defined as a political action committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of ~~\$5,000~~ \$1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with

the Commission. In the case of a municipal election, a copy of the same information must be filed with the clerk of that municipality.

1. Filing requirements. A report required by this section must be filed with the Commission according to a reporting schedule that the Commission shall establish that takes into consideration existing campaign finance reporting schedule requirements in section 1059.

2. Content. A report must contain an itemized account of each expenditure made and each contributions received and expenditure made from a single source aggregating in excess of \$100 in any election; the date of each contribution; the date and purpose of each expenditure; and the name and address of each contributor, payee or creditor. ~~Total contributions or expenditures of less than \$500 in any election need not be itemized. The report must state whether the purpose for receiving contributions and making expenditures is in support of or in opposition to the ballot question. The person filing the report must disclose contributions and expenditures from the beginning of the calendar year. The filer is required to report only those contributions made to the filer for the purpose of initiating, promoting, defeating or influencing in any way a ballot question and only those expenditures made for those purposes.~~

2-A. Contributions. For the purposes of this section, contribution includes, but is not limited to:

A. funds which the contributor specified were given in connection with a ballot question;

B. funds provided in response to a solicitation which would lead the contributor to believe that the funds would be used specifically for the purpose of initiating, promoting, defeating, or influencing in any way a ballot question; and

C. funds which can reasonably be determined to have been provided by the contributor for the purpose of initiating, promoting, defeating, or influencing in any way a ballot question when viewed in the context of the contribution and the recipient's activities regarding a ballot question.

All contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to the filer are considered to be contributions to the filer. The filer shall report the original source of the contribution.

3. Forms. A report required by this section must be on a form prescribed and prepared by the Commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

4. Records. A person filing this report shall keep records as required by this subsection until 10 days after the next election following the election to which the records pertain.

A. Detailed accounts. The filer must keep a detailed account of all contributions made to the filer for the purpose of initiating, promoting, defeating, or influencing in any way a ballot question and all expenditures made for those purposes.

B. Receipts. The filer must retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50.

21A § 1060. Content of reports

The reports must contain the following information and any additional information required by the Commission to monitor the activities of political action committees:

- 1. Identification of candidates.** The names and mailing addresses of any candidate whom the committee supports, intends to support or seeks to defeat. The report must indicate the office that the candidate is seeking, the political party represented by the candidate, if any, the date of the contest and whether the contest is an election or a primary;
- 2. Identification of committees; parties.** The names and mailing addresses of any political committee or political party supported in any way by the registrant;
- 3. Identification of referendum or initiated petition.** The referendum or initiated petition which the committee supports or opposes and the names and mailing addresses of the organizations to which expenditures were made;
- 4. Itemized expenditures.** An itemization of each expenditure made to support or oppose any candidate, campaign, political committee, political action committee, political party, referendum or initiated petition, including the date, payee and purpose of the expenditure and the address of the payee. If expenditures were made to a person described in section 1012, subsection 3, paragraph A, subparagraph (4), the report must contain the name of the person; the amount spent by that person on behalf of the candidate, campaign, political committee, political action committee, political party, referendum or initiated petition, including, but not limited to, expenditures made during the signature-gathering phase; the reason for the expenditure; and the date of the expenditure. The Commission may specify the categories of expenditures that are to be reported to enable the Commission to closely monitor the activities of political action committees;
- 5. Aggregate expenditures.** An aggregation of expenditures and cumulative aggregation of expenditures to a candidate, campaign, political committee, political action committee, referendum or initiated petition;
- 6. Identification of contributions.** Names, occupations, places of business and mailing addresses of contributors who have given more than \$50 to the political committee after the committee has registered under section 1053, the amount contributed by each donor and the date of the contribution. All contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to a political action committee are considered to be contributions to the committee. The committee shall report the original source of the contribution as the contributor.

The information already reported as required by section 1053, subsection 7 should not be duplicated; and

7. Other expenditures. Operational expenses and other expenditures in cash or in kind that are not made on behalf of a candidate, committee or campaign.

8. Organizations with other major purposes. For purposes of subsections 6 and 7, an organization qualifying as a political action committee under section 1052(5)(A)(5) is required to report only those expenditures made for the purpose of promoting, defeating or influencing the nomination or election of a candidate to political office, and only those contributions made to the organization for that purpose.



advancing the nonprofit sector

To: Members of the Ethics Commission
From: Brenda Peluso, Director of Public Policy
Date: March 8, 2007
RE: Amended PAC Definition and Changes to Section 1056-B – Agenda Item #16

Thank you for accepting my written testimony and I apologize for being unable again to attend in person.

In my last testimony to the Commission, I raised the concern I had about the prior version of this bill because for nonprofits that are tax-exempt under IRS code 501(c)(3), the formation of a PAC is problematic. At the time, I wasn't sure if it was even permitted. Legal advice has determined that it is possible, but certainly not optimal or even easy. This version of the bill retains and strengthens the reporting requirements under 1056-B and labels it clearly for the public, but not so it will discourage nonprofit participation. We greatly appreciate the staff's thoughtful consideration and willingness to revisit this issue and feel the outcome balances the need for public disclosure while preserving the system's current level of consistency with federal tax reporting requirements for 501(c)(3) organizations.

Furthermore, I believe this bill will address most of the concerns raised by the Joint Standing Committee on Legal and Veterans Affairs during hearings on other bills aimed at strengthening Maine's PAC and other organizations' election reporting regulations.

Thank you to the staff for their openness and hard work on this very complicated issue, and thank you again for this opportunity to comment. I hope this bill is referred to the legislature for further consideration and I look forward to continued participation in the process.

ADDITIONAL MATERIALS**RE: Item #18**

March 9, 2007



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

March 7, 2007

Hon. Thomas B. Saviello
60 Applegate Lane
Wilton, Maine 04294

Dear Rep. Saviello:

This letter is in response to your request for guidance on whether you can vote on or otherwise influence legislation or a Department of Environmental Protection rule-making regarding the Regional Greenhouse Gas Initiative (RGGI). Your request was considered at the Ethics Commission's meeting on February 27, 2007.

Factual Background

The Commission considered the following factual background, based on information provided by you and other interested persons and the DEP website.

RGGI is a cooperative effort among northeastern and mid-Atlantic states to reduce emissions of carbon dioxide by electric power generators. If adopted by these states, the agreement would impose a cap on total carbon dioxide emissions for the region, and power plants that emitted carbon dioxide would likely be required to buy allowances on a market in order to emit carbon dioxide. The DEP has begun seeking public input on the RGGI rules.

If adopted in Maine, six power plants in the state likely would be required to buy the allowances. Two of the six power plants are owned by Verso Paper Holdings LLC, which owns paper mills in Jay and Bucksport, Maine. You are employed as the environmental manager of the Jay mill.

The paper mill in Jay has a power plant which creates steam used in paper production and which also produces electric power which is sold. As the environmental manager for the mill, you oversee compliance of the power plant with the state's environmental laws and rules. Verso Paper engages a consulting firm to oversee the power plant. That firm purchases allowances to emit a different chemical, sodium dioxide.

Because Maine's RGGI program is still under development, it is difficult to know what the costs of the allowances would be to Verso Paper, but for the purposes of this opinion you suggested it could be in the range of \$5 million for each plant. If the Jay plant were

Hon. Thomas B. Saviello

- 2 -

March 7, 2007

required to buy allowances, they would be purchased by Verso Paper's accounting department. If adopted in Maine, the RGGI program would not significantly affect your job responsibilities or the performance of your job. The purchases of the allowances would not affect your department's budget.

The Commission received comments from an environmental organization stating that one bill concerning RGGI may contain some financial incentives that would be paid by the state of Maine to Verso Paper.

Legal Standard for Legislative Conflict of Interest under Maine Law

During the course of the discussion, the Commission analyzed the potential conflict under Paragraphs 1(A), (E), and (F) of 1 M.R.S.A. §1014:

A. Where a Legislator or a member of his immediate family has or acquires a direct substantial personal financial interest, distinct from that of the general public, in an enterprise which would be financially benefited by proposed legislation, or derives a direct substantial personal financial benefit from close economic association with a person known by the Legislator to have a direct financial interest in an enterprise affected by proposed legislation.

E. Where a Legislator or a member of his immediate family accepts or engages in employment which could impair the Legislator's judgment, or where the Legislator knows that there is a substantial possibility that an opportunity for employment is being afforded him or a member of his immediate family with intent to influence his conduct in the performance of his official duties, or where the Legislator or a member of his immediate family stands to derive a personal private gain or loss from employment, because of legislative action, distinct from the gain or losses of other employees or the general community.

F. Where a Legislator or a member of his immediate family has an interest in legislation relating to a profession, trade, business or employment in which the Legislator or a member of his immediate family is engaged, where the benefit derived by the Legislator or a member of his immediate family is unique and distinct from that of the general public or persons engaged in similar professions, trades, businesses or employment.

Factors Considered by the Commission

In considering this matter, the Commission acknowledged certain negative results that would occur if you were to recuse yourself from the RGGI legislation and rule-making:

Hon. Thomas B. Saviello

- 3 -

March 7, 2007

- The Legislature's decision-making process is benefited when members bring specialized knowledge and experience to the debate. You have relevant professional and educational experience that bears on discussion of RGGI. If you recused yourself, you would not be available as a resource to your colleagues.
- Policy-making at the State House is benefited when Legislators and others present a range of views, which complement and sometimes even clash with each other. When a Legislator with a valuable professional background recuses himself, the recusal affects the balance of viewpoints considered.
- Your recusal would deny the constituents in House District #90 a representative voice when the Legislature reaches a policy decision on the RGGI rules. Unlike recusal situations in other public offices (e.g., the judiciary), when a Legislator recuses himself, he or she is not replaced by a substitute. So, the residents in your legislative district would essentially be unrepresented if you recused yourself from the RGGI legislation.

Nevertheless, Legislators should consider the appearance of a conflict of interest in addition to whether there is an actual conflict in order to maintain public confidence in government. This advice is included in the statement of purpose of the Legislative Ethics Law (1 M.R.S.A. §1011).

Advice of the Commission

At the February 27, 2007 meeting, the Commission voted 3-2 to advise you that it would not be a conflict of interest for you to participate in the legislative process regarding RGGI – including discussion of policy issues and providing factual information to your colleagues – but that the Commission would strongly urge you to consider whether you should recuse yourself from voting on each specific bill or resolve concerning RGGI that might affect Verso Paper.¹ This does not mean that the Commission is advising you not to vote on any RGGI legislation or resolve on proposed rules simply because it will affect your employer. Rather, the Commission reminds you that you are under an obligation under Sections 1014(1) and 1015(1) to consider, on a case-by-case basis, whether you should recuse yourself from each RGGI bill or resolve. The Commission is reluctant to conclude at this stage that voting on a proposed law or resolve concerning RGGI will be an actual or potential conflict of interest when you have not presented a specific bill or resolve for the Commission's consideration.

Sincerely,

Andrew Ketterer

Andrew Ketterer
Commission Chair

¹ Commission members Michael Friedman, Mavourneen Thompson and I voted to approve this advice, and members Jean Ginn Marvin and Vinton Cassidy voted against.



123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 1090

H.P. 808

House of Representatives, March 6, 2007

An Act To Authorize the State's Participation in the Regional Greenhouse Gas Initiative

Reference to the Committee on Natural Resources suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative KOFFMAN of Bar Harbor.
Cosponsored by Senator BARTLETT of Cumberland and
Representatives: BERRY of Bowdoinham, BLISS of South Portland, BRAUTIGAM of
Falmouth, CONOVER of Oakland, Speaker CUMMINGS of Portland, DUCHESNE of
Hudson, EATON of Sullivan, EBERLE of South Portland, HINCK of Portland, MARLEY of
Portland, MIRAMANT of Camden, PENDLETON of Scarborough, PINGREE of North
Haven, PIOTTI of Unity, SIMPSON of Auburn, TREAT of Farmingdale, WATSON of Bath,
Senators: BENOIT of Sagadahoc, DAMON of Hancock, DOW of Lincoln, President
EDMONDS of Cumberland, MARTIN of Aroostook, MILLS of Somerset, TURNER of
Cumberland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 38 MRSA c. 3-A, as amended, is repealed.**

3 **Sec. 2. 38 MRSA c. 3-B is enacted to read:**

4 **CHAPTER 3-B**

5 **REGIONAL GREENHOUSE GAS INITIATIVE**

6 **§579-A. Regional greenhouse gas initiative**

7 **1. Definitions. As used in this chapter, unless the context otherwise indicates, the**
8 **following terms have the following meanings.**

9 **A. "Administrative costs" means costs of the commission and department that are**
10 **expended pursuant to and associated with the implementation of this section,**
11 **including, but not limited to, costs of program planning and evaluation, securing**
12 **necessary expertise, contract formation and administration and monitoring and**
13 **enforcing contractual obligations.**

14 **B. "Allowance" means an authorization to emit a fixed amount of carbon dioxide.**

15 **C. "Cap and trade program" means a policy approach for controlling emissions from**
16 **a group of emitting sources, such as electric generating facilities, by:**

17 **(1) Setting an overall cap or maximum amount of emissions from all regulated**
18 **sources per compliance period, rather than regulating each source individually;**

19 **(2) Creating and issuing a certain number of authorizations to emit in the form of**
20 **allowances and making them available to the marketplace through a sale by**
21 **auction;**

22 **(3) Limiting the total number of allowances made available in any compliance**
23 **period; and**

24 **(4) Requiring regulated sources to completely and accurately measure and report**
25 **all covered emissions and turn in an equal number of allowances as emissions at**
26 **the end of the compliance period.**

27 **D. "Carbon" means carbon dioxide emissions.**

28 **E. "Carbon cap" or "cap" means a cap on carbon.**

29 **F. "Commission" means the Public Utilities Commission.**

30 **G. "Covered facility" means any electric power generating unit that is subject to**
31 **regulation pursuant to the initiative memorandum.**

32 **H. "Electric power sector" means the 4 classes of consumers of electric power:**
33 **industrial; business and commercial; municipal and institutional; and residential and**
34 **low-income residential.**

1 I. "Memorandum of Understanding" or "memorandum" means the Regional
2 Greenhouse Gas Initiative Memorandum of Understanding dated December 20, 2005
3 that establishes an electric power sector carbon emissions cap and trade program
4 within the northeast region of the United States.

5 J. "Regional Greenhouse Gas Initiative" or "initiative" means the initiative referred
6 to in the Memorandum of Understanding and the corresponding model rule.

7 K. "Service provider" means a public or private provider of energy efficiency,
8 conservation, demand-side or carbon reduction management services or an entity
9 selected by the commission to contract with such providers or otherwise arrange the
10 delivery of energy efficiency or carbon reduction programs.

11 **2. Cap and trade program.** There is established a cap and trade program.

12 A. By rule, the department, in consultation with the commission, shall establish a
13 carbon dioxide cap and trade program to limit and then reduce the total carbon
14 emissions released by electric generating stations that provide electric power to the
15 State's utilities and end-use consumers.

16 B. The department's rules establishing a carbon cap and trade program must be
17 designed to comply with the Regional Greenhouse Gas Initiative and permit the
18 holders of allowances to trade them in a regional market to be established through the
19 initiative.

20 **3. Annual carbon budgets and allocation of tradable carbon allowances.** The
21 department shall, by rule, establish annual budgets for total emissions of carbon
22 associated with the electric power sector in the State consistent with the initiative
23 memorandum.

24 A. In establishing annual carbon emission budgets, the department may not exceed
25 the State's maximum allotment of annual allowances pursuant to the initiative
26 memorandum, and shall reduce the budget if the total estimated annual estimated
27 emissions for the budget year is 250 or more tons below the state cap. Any such
28 reduction in the annual emission budget may be made contingent upon continued
29 idling or retirement of a covered facility during the budget year. The department may
30 make further reductions in the State's annual cap on a reciprocal basis with the other
31 states participating in the initiative.

32 B. The department shall retire allowances to account for voluntary renewable energy
33 sales within each control period within the State, consistent with the initiative model
34 rule.

35 C. The department shall annually convey 100% of allowances established pursuant
36 to this section into the Energy Efficiency and Carbon Reduction Trust Account
37 established pursuant to subsection 6.

38 **4. Auction design.** The following provisions apply to the auction of allowances.

39 A. Any tradable electric power sector carbon allowances established pursuant to this
40 section must be sold through a public auction process open to all who wish to
41 participate.

1 B. The commission, in consultation with the department, shall determine and specify
2 the method of auctioning allowances, including the design of the auction process, the
3 entity that may conduct and manage the auction and the timing of auctions in any
4 year. The auction process must be designed to mitigate the risk of market power and
5 advance the purposes of this section.

6 C. The commission, in consultation with the department, shall engage an
7 independent contractor, consumer trustee or other entity experienced in auction
8 design and management or contract with a consumer trustee or other entity
9 determined by the commission to be qualified to conduct auctions in a manner that
10 ensures the efficiency of the auction process. The determination of an independent
11 contractor, consumer trustee or other entity must include an open and public request
12 for proposals from parties seeking to conduct the auctions. Any person or entity
13 selected by the commission to conduct the auctions may be reimbursed only for
14 reasonable costs of administering the program, as determined by the commission.
15 The independent contractor, consumer trustee or other entity is authorized to receive,
16 hold and sell allowances for the long-term benefits of consumers.

17 D. All proceeds from the sale of allowances, minus the administrative costs of the
18 auction, must be deposited into the trust account.

19 E. The commission shall require an annual report describing the auction and its
20 results from the independent contractor, consumer trustee or other entity describing
21 the auction and its results. The report must be made available to the public and be
22 submitted to the joint standing committees of the Legislature having jurisdiction over
23 natural resources matters and utilities and energy matters.

24 5. Energy Efficiency and Carbon Reduction Trust Account. The commission
25 shall establish a trust account pursuant to this subsection.

26 A. The commission shall establish the Energy Efficiency and Carbon Reduction
27 Trust Account, referred to as "the trust account" in this section, to receive, hold, bank
28 and sell tradable allowances and any revenue received from the sale of those
29 allowances.

30 B. All allowances and funds in the trust account may be used only for energy
31 efficiency and programs that reduce the State's emissions of carbon dioxide and other
32 greenhouse gases, except that:

33 (1) Up to 5% of total funds may be used for costs of administration of this
34 section; and

35 (2) Up to 2% of total funds may be used for the administrative costs of the
36 advisory board established in subsection 7, paragraph C.

37 The commission may establish separate subaccounts for each of these purposes.

38 C. Any interest earned on funds in the trust account must be credited to the trust
39 account. Funds not spent in any fiscal year remain in the trust account to be used for
40 future energy efficiency and carbon reduction programs.

41 D. All funds collected pursuant to this section, whether held by the commission or
42 the auctioneer or their agents, may be used only for the purposes of benefiting electric

1 power consumers, reducing energy consumption and lowering the State's greenhouse
2 gas emission profile.

3 E. In the event funds are not expended or contracted for expenditure within 4 years
4 of being deposited, the commission shall return the value of those funds to electric
5 power consumers in a manner consistent with the costs of the program paid by each
6 electric power sector for the year the funds were collected.

7 6. Energy efficiency and carbon reduction program. The commission shall
8 periodically develop and implement an energy efficiency and carbon reduction program
9 pursuant to this subsection.

10 A. In order to provide the maximum long-term benefit to the State's energy
11 consumers and to achieve the greatest possible reductions in emissions of carbon and
12 other gases that contribute to global warming, the commission, in consultation with
13 the department, shall periodically develop and, to the extent of available funds,
14 implement a statewide energy efficiency and carbon reduction program. To the
15 maximum extent practicable, the program must:

16 (1) Reduce the State's emissions of greenhouse gases consistent with the
17 reduction goals of this chapter;

18 (2) Benefit the State's energy consumers;

19 (3) Build upon existing regulatory and administrative structures and programs
20 that lower energy costs, improve energy efficiency or lower the State's carbon
21 emissions profile;

22 (4) Provide support for new emissions-reducing activities or projects that would
23 not occur under existing programs or investments;

24 (5) Support programs and activities that do not pose a significant risk to human
25 health and the environment;

26 (6) Fairly balance and distribute proceeds from the public sale of allowances in
27 accord with the purposes of this section; and

28 (7) Foster development and deployment of clean energy technologies and carbon
29 abatement technologies that have significant carbon reduction potential.

30 B. To the extent practicable, the energy efficiency and carbon reduction program
31 must be coordinated and integrated with other energy-related programs of the State.

32 C. To carry out its responsibilities pursuant to this section, the commission shall
33 present an annual program plan to an advisory board composed of persons with
34 relevant expertise and experience, including persons representing consumers in each
35 electric power sector, environmental interest groups, public health groups, the Office
36 of the Public Advocate, the University of Maine or other state academic institution,
37 the department and the Energy Resources Council. Electrical generators, energy
38 suppliers and utilities may be provided with one or more ex officio, nonvoting seats
39 on the board. The commission may contract with appropriate entities with relevant
40 expertise and experience to assist the board. The commission may merge the duties
41 of the advisory board with other activities of the commission.

1 D. The commission shall hold at least one public hearing and invite, accept, review
2 and consider comments and suggestions from interested parties prior to adopting or
3 substantially revising the energy efficiency and carbon reduction program.

4 7. Implementation. The initiative must be implemented in accordance with the
5 following provisions.

6 A. In recognition of the superior cost and greenhouse gas reduction benefits resulting
7 from accelerated and sustained investments in cost-effective energy efficiency,
8 energy conservation and low-cost, low-carbon electric power system investments, the
9 commission shall place a high priority upon delivery of cost-effective energy
10 efficiency, conservation and demand-side management programs. To the extent
11 funds are expended on this priority, the commission shall, to the extent practicable,
12 balance and distribute proceeds from the public sale of allowances in approximate
13 proportion to the cumulative program costs paid by each electric power sector, with
14 costs to be averaged over a period of 3 or more years.

15 B. The commission shall provide for competitive solicitations of targeted energy
16 efficiency and greenhouse gas emissions reduction delivery programs as part of its
17 overall development of programs under this chapter. The commission may arrange
18 the delivery of energy efficiency and emission reduction programs by contracting
19 with service providers. The commission shall select service providers in accordance
20 with this paragraph.

21 (1) The commission shall select service providers through a competitive bidding
22 process, except that:

23 (a) The commission may select a service provider for one or more programs
24 without employing a competitive bidding process if the commission finds
25 that the selection of the service provider will promote the efficient and
26 effective delivery of programs and is consistent with the objectives of this
27 chapter; and

28 (b) For the delivery of energy efficiency and conservation programs to low-
29 income and residential consumers, the commission, without employing a
30 competitive bidding process, may use the delivery system for the
31 Weatherization Assistance for Low-income Persons Program administered
32 through the United States Department of Energy and the network of for-profit
33 and not-for-profit entities who have held contracts with transmission and
34 distribution utilities to deliver conservation services to low-income and
35 residential customers.

36 (2) To the extent practicable, the commission shall encourage the development
37 of resources, infrastructure and skills within the State by giving preference to in-
38 state service providers.

39 C. Notwithstanding Title 5, section 1831, the commission is not subject to rules
40 adopted by the State Purchasing Agent in selecting service providers pursuant to this
41 subsection. The commission shall adopt rules establishing procedures governing the
42 selection of service providers under this subsection. The commission shall consult
43 with the State Purchasing Agent in developing the rules.

1 8. Effect on other responsibilities. The responsibilities created by this section are
2 in addition to all other responsibilities imposed by any other law or rule and may not
3 diminish or reduce any power or authority of the commission or department including the
4 authority to adopt standards and rules necessary for the State to join and fully participate
5 in any multistate program, at any stage in the development and implementation of such a
6 program, intended to control emissions of carbon dioxide or other substances that are
7 determined by the department to be damaging or altering the climate.

8 9. Rules. The commission and department shall each adopt rules necessary to
9 implement this section. Rules adopted under this subsection are routine technical rules as
10 defined in Title 5, chapter 375, subchapter 2-A.

11 10. Report. The commission and department shall report by January 1st of each
12 year to the joint standing committees of the Legislature having jurisdiction over natural
13 resources matters and utilities and energy matters. The report must include a description
14 of the implementation and operation of the initiative, the revenues collected and the
15 expenditures made under this section, the statewide energy efficiency and carbon
16 reduction programs and any recommendations for changes to law relating to the State's
17 energy conservation or carbon reduction efforts.

18 **Sec. 3. Findings.** The Legislature finds that:

19 1. There is a growing scientific consensus that the increased anthropogenic emissions
20 of greenhouse gases are enhancing the natural greenhouse effect, resulting in changes in
21 the earth's climate, and that these changes in climate pose serious risks to human health
22 and terrestrial and aquatic ecosystems globally, regionally and in the State;

23 2. A carbon constraint on fossil fuel-fired electricity generation and the development
24 of a carbon emissions cap and trade program will create a strong incentive for the
25 creation and deployment of more efficient fuel-burning technologies, renewable resources
26 and end-use efficiency resources and will lead to lower carbon emissions and lower
27 dependence on imported fossil fuels;

28 3. Absent federal action, some states are taking actions to work regionally to reduce
29 electric power sector carbon emissions;

30 4. The State has joined with these other states to design the Regional Greenhouse
31 Gas Initiative, and, in 2005, the Governor signed a memorandum of understanding
32 signaling the State's intention to participate in the initiative;

33 5. The State's participation in the initiative is a crucial and necessary step to meet the
34 greenhouse gas emission reduction goals set forth in this Act;

35 6. It is crucial to maximize the State's contribution to lowering carbon emissions
36 while minimizing impacts on electric system reliability and unnecessary costs to the
37 State's electric power and energy consumers;

38 7. The accelerated deployment of low-cost energy efficiency technologies and the
39 strategic use of low-carbon and zero-carbon generation are the best means to achieve
40 these goals; and

1 8. It is crucial that funds made available from operation of a regional carbon cap and
2 trade program be devoted to the benefit of the State's energy consumers through
3 investments in a strategic portfolio of energy efficiency and low-carbon energy resources.

4 **SUMMARY**

5 This bill authorizes the State's participation in the Regional Greenhouse Gas
6 Initiative. It establishes a carbon dioxide cap and trade program and establishes annual
7 budgets for emissions of carbon associated with the electric power sector in the State.