

March 20, 2024

Dear Senate Committee on Commerce and Consumer Protection Members,

Thank you for the opportunity to provide written testimony concerning the second engrossment of *SF 3561 – Packaging Waste and Cost Reduction Act* (SF 3561-2), which we respectfully oppose.

Founded in 1933, the Foodservice Packaging Institute (FPI) is the leading authority on foodservice packaging in North America. FPI supports the responsible use of all foodservice packaging, while advocating an open and fair marketplace for all materials. Our core members include raw material and machinery suppliers as well as packaging manufacturers, which represent approximately 90 percent of the industry. Additionally, a number of distributors and purchasers of foodservice packaging are part of FPI's affiliate membership.

The foodservice packaging industry is committed to reducing the impact of its products on the environment and is dedicated to increasing their recovery. FPI has several special interest groups that bring together the supply chain to develop and promote economically viable and sustainable recovery solutions for foodservice packaging. These special interest groups include the Paper Recovery Alliance, Plastic Recovery Group, Paper Cup Alliance and Foam Recycling Coalition. More information on these groups and their efforts can be found [here](#).

As part of our commitment to increasing the recovery of foodservice packaging, we are supportive of policy approaches that advance this effort through systems such as recycling and composting. With respect to producer responsibility programs, it is our position that programs should be based on the principles of shared responsibility, fairness and system effectiveness and efficiency. With these principles in mind, please find detailed below our main concerns and recommendations with respect to SF 3561-2.

### **Packaging Definition**

We acknowledge the desire to leverage established definitions of packaging and food packaging for the purposes of SF 3561-2. However, we suggest that additional considerations are necessary for producer responsibility programs. From our perspective, it is essential to include language specifying that covered materials as it relates to packaging and food packaging pertains exclusively to consumer packaging intended for the residential sector. This distinction is crucial for clearly delineating the scope of covered materials under the program.

### **Statewide Requirements**

Establishing performance targets relating to recycling and/or composting, reuse, source reduction and the use of postconsumer recycled content is a complex task, particularly in the absence of robust data to guide such goals in Minnesota.

Further, while Sub. 13. (b) notes that “the commissioner may adjust any requirement established in paragraph (a) by no more than five percent but must submit the proposed adjustment to the advisory board and consider the board's recommendations before making the adjustment”, a clear process for such an adjustment has not been detailed.

It is our view that mandated statewide goals should be removed from SF 3561-2. Instead, the producer responsibility organization should be responsible for proposing targets in stewardship plans submitted for approval after the completion of the needs assessment. This approach allows for targets to reflect the realities of the marketplace and infrastructure within the state.

## **Funding and Scope**

As proposed, the producer responsibility organization is responsible for reimbursing service providers for “collecting covered materials generated from all single-family residences, multifamily residences, and public places in the state” and “managing covered materials generated from all single-family residences, multifamily residences, public places, and commercial, industrial, and institutional facilities in the state”. We are concerned with several aspects of these reimbursement requirements.

First, it is our suggestion that during the transition to a producer responsibility program only those residential sources with existing services be included in the initial program plan. This promotes a seamless transition of existing services for single-family homes and multifamily residences. Over time, these services may be expanded to new sources and consideration can be given to other locations that may generate consumer packaging.

Regarding public places, we appreciate that under Sub. 3. (8)(iv) that the plan should ensure collection of covered materials at no cost to “political subdivisions that arrange for the collection of recyclable materials from public places”. However, we continue to recommend that a definition of “public places” is needed to scope these areas to those where waste disposal services are provided by either the state or local jurisdiction throughout SF-3561-2.

We also note concern with the inclusion of reimbursements for managing covered materials from commercial, industrial, and institutional facilities as these properties often have contracts for recycling service that already include these costs as part of overall fees.

Also related to reimbursements, we recommend clarity with respect to the need for reimbursement rates to reflect the cost of managing contamination and cleaning or sanitation needed for reuse systems. It is our view that there should not be cross subsidization of programs and materials. That is to say that the costs related to reuse should be funded by those producers of reusables rather than all producers.

## **Reuse Definition**

With respect to the definition of reuse, we suggest consideration of a definition that differentiates between producer reuse systems and consumer reuse and refill. A consumer reuse and refill definition should reflect the ability of the packaging to be reused for the same or similar general purpose for which it was conceived (for example, for food storage purposes), as well as that formal systems are not always needed in these instances.

For the reasons outlined above, we are opposed to SF 3561-2. FPI would be pleased to discuss these comments with you further, and we thank you for your consideration of this feedback.

Sincerely,



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