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Date: (Filing No. H-)

ENVIRONMENT AND NATURAL RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1146, L.D. 1541, “An Act To Support and Improve Municipal Recycling Programs and Save Taxpayer Money”

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 38 MRSA §1776, sub-§11, as enacted by PL 2013, c. 315, §7, is amended to read:

11. Exceptions. This section does not apply to products subject to section 1610, 1665-A, 1665-B, 1672, 2146, 2165 or 2166.

Sec. 2. 38 MRSA §2146 is enacted to read:

§2146. Stewardship program for packaging

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Compostable" means, with respect to a covered product, that the covered product or its associated packaging material has been certified by a 3rd-party certifying body as meeting ASTM D6400, the standard specification published by ASTM International for the labeling of plastics designed to be aerobically composted in municipal or industrial facilities, or ASTM D6868, the standard specification published by ASTM International for labeling of end items that incorporate plastics and polymers as coatings or additives with paper and other substrates designed to be aerobically composted in municipal or industrial facilities, or successor publications.

B. "Composting rate" means, with respect to a covered product, the percentage of the total amount by weight of that covered product that is discarded in the State and managed through composting or anaerobic digestion in the State or in another jurisdiction.

C. "Covered product" means a product that is sold, offered for sale or distributed for sale in or into the State contained, protected, delivered, presented or distributed in or using packaging material. "Covered product" includes the packaging material used for

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1 or associated with the containment, protection, delivery, presentation or distribution of
2 the product to the ultimate consumer in the State.

3 D. "Drug" means any substance recognized as a drug under 21 United States Code,
4 Section 321(g)(1), as amended, and any regulations adopted pursuant to that provision,
5 that is sold, offered for sale or dispensed in the State, whether directly or through a
6 wholesaler, in any form, including, but not limited to, prescription and nonprescription
7 drugs, drugs in medical devices and combination products, brand and generic drugs
8 and drugs for veterinary use. "Drug" does not include:

9 (1) Vitamins or supplements;

10 (2) Herbal-based remedies and homeopathic drugs, products or remedies;

11 (3) Cosmetics, soap with or without germicidal agents, laundry detergent, bleach,
12 household cleaning products, shampoo, sunscreen, toothpaste, lip balm,
13 antiperspirant or other personal care products that are regulated as both cosmetics
14 and nonprescription drugs under the Federal Food, Drug, and Cosmetic Act;

15 (4) Pet pesticide products contained in pet collars, powders, shampoos, topical
16 applications or other forms;

17 (5) Drugs that are biological products, as defined in 21 Code of Federal
18 Regulations, Section 600.3(h), if the manufacturer provides a program to take back
19 that drug;

20 (6) Drugs for which a manufacturer provides a program to take back those drugs
21 as part of a United States Food and Drug Administration managed risk evaluation
22 and mitigation strategy;

23 (7) Emptied syringes or emptied medical devices or the component parts or
24 accessories of those products or devices;

25 (8) Drugs that are used solely in a clinical setting; and

26 (9) Dialysate drugs required to perform home kidney dialysis.

27 E. "Packaging material" means the material used for or associated with the
28 containment, protection, delivery, presentation or distribution of a covered product at
29 the time the covered product is received by the consumer of the covered product at a
30 retail location in the State or at the consumer's residence in the State. "Packaging
31 material" does not include material:

32 (1) That is a beverage container, as defined in section 3102, subsection 2 and
33 subject to the requirements of chapter 33, or other material used for or associated
34 with the containment, protection, delivery, presentation or distribution of the
35 beverage container;

36 (2) That is a reusable food service container;

37 (3) That is used exclusively for transporting a covered product between entities
38 within the supply chain of the product that do not provide the product to its ultimate
39 consumer and that is not used for the containment, protection, delivery,
40 presentation or distribution of the covered product at the time the product is
41 received by the consumer of the covered product;

- 1 (4) That is used for the containment, protection, delivery, presentation or
2 distribution of a drug, as that term is defined in paragraph D, that is collected under
3 a stewardship program in the State that has been approved for operation by the
4 department and has been established to collect and dispose of such drugs;
- 5 (5) That is used for the containment, protection, delivery, presentation or
6 distribution of a drug, as that term is defined under Section 321 of the Federal
7 Food, Drug, and Cosmetic Act, as regulated by the United States Food and Drug
8 Administration under the Federal Food, Drug, and Cosmetic Act;
- 9 (6) That is a medical device or a biological product, or is used for the containment,
10 protection, delivery, presentation or distribution of a medical device or a biological
11 product, as regulated by the United States Food and Drug Administration under 21
12 Code of Federal Regulations, Parts 200, 300 and 800;
- 13 (7) That is used for the containment, protection, delivery, presentation or
14 distribution of an over-the-counter human drug product for which tamper-evident
15 packaging is required, as regulated by the United States Food and Drug
16 Administration under 21 Code of Federal Regulations, Section 211.132;
- 17 (8) That is used for the containment, protection, delivery, presentation or
18 distribution of a substance regulated by the United States Consumer Product Safety
19 Commission pursuant to the federal Poison Prevention Packaging Act of 1970 for
20 which special packaging is required under 16 Code of Federal Regulations, Part
21 1700;
- 22 (9) That is used for the containment, protection, delivery, presentation or
23 distribution of a substance that is a hazardous waste as defined in 40 Code of
24 Federal Regulations, Part 261, Subparts C and D;
- 25 (10) That is intended to be used on an ongoing basis for the long-term
26 transportation, storage or protection of a durable product;
- 27 (11) That is used for the containment, protection, delivery, presentation or
28 distribution of a product regulated under the Federal Insecticide, Fungicide and
29 Rodenticide Act;
- 30 (12) That is used in the shipment of hazardous materials and that:
- 31 (a) Pursuant to the federal packaging material specifications under 49 Code of
32 Federal Regulations, Section 178.509 or 178.522 may not be manufactured
33 using used material;
- 34 (b) Is subject to the testing standards set forth in 49 Code of Federal
35 Regulations, Part 178, Subpart M; or
- 36 (c) Is subject to United Nations publication titled Recommendations on the
37 Transport of Dangerous Goods, or successor publication;
- 38 (13) That is used for the containment, protection, delivery, presentation or
39 distribution of a product for which the signal word "danger" or "poison" is required
40 to be included on the product's label pursuant to the Federal Hazardous Substances
41 Act, 15 United States Code, Chapter 30; or

1 (14) That, by design, and as a result of the anticipated use by a consumer of the
2 material or the product the material contains or protects, becomes unsafe or
3 unsanitary to recycle.

4 F. "Packaging stewardship fund" or "fund" means the fund established and managed
5 by a stewardship organization pursuant to subsection 5.

6 G. "Packaging stewardship organization" or "stewardship organization" means a 3rd-
7 party entity established by one or more responsible parties pursuant to subsection 2 to
8 operate a packaging stewardship program.

9 H. "Packaging stewardship program" or "program" means a program implemented
10 under this section by a stewardship organization to assess and collect payments from
11 participating responsible parties in accordance with subsection 4 and to use such
12 collected payments for the purposes described in subsection 6.

13 I. "Performance goal" means a goal identified pursuant to subsection 3, paragraph A,
14 subparagraph (8) to measure a packaging stewardship program's progress in achieving
15 waste reduction, reuse and recycling improvements for each type of covered product
16 managed under the program.

17 J. "Recyclable" means, with respect to a covered product, that the covered product or
18 its associated packaging material meets the criteria and standards for recyclability as
19 determined pursuant to subsection 3, paragraph A, subparagraph (4).

20 K. "Recycling" has the same meaning as in section 1771, subsection 7.

21 L. "Recycling access rate" means the percentage of households in the State that have
22 access to combined waste disposal and recycling services.

23 M. "Recycling and recovery best practice standards" means the requirements and
24 standards identified in the plan proposed pursuant to subsection 3, paragraph A,
25 subparagraph (6).

26 N. "Recycling rate" means, with respect to a covered product, the percentage of the
27 total amount by weight of that covered product that is discarded in the State and
28 considered usable or marketable.

29 O. "Responsible party" means, with respect to a covered product using packaging
30 material:

31 (1) The person that manufactures the covered product using packaging material
32 under the person's own brand and sells, offers for sale or distributes for sale direct
33 to consumers the covered product and packaging material in or into the State;

34 (2) If there is no person to which subparagraph (1) applies, the person that is the
35 licensee of the trademark, whether registered in the State or unregistered, under
36 which the covered product using packaging material is used in a commercial
37 enterprise or is sold, offered for sale or distributed to consumers for sale in or into
38 the State; or

39 (3) If there is no person to which subparagraphs (1) or (2) apply, the person that
40 imports the covered product using packaging material into the State for sale,
41 offering for sale or distribution to consumers for sale in or into the State.

1 P. "Reusable" means, with respect to a covered product, that the covered product or
2 its associated packaging material is capable of and designed to be reused or refilled
3 and:

4 (1) A program is available to residents of the State that allows for the collection
5 and reuse or refilling of the covered product or packaging material; or

6 (2) Facilities or other products are available to residents of the State that allow a
7 resident to reuse or refill the covered product or packaging material so that it may
8 be reused in a manner similar to the intended use of the original covered product
9 or for a purpose similar to its original purpose.

10 **2. Formation of stewardship organization.** On or before October 1, 2023, each
11 responsible party, individually or collectively with other responsible parties, shall submit
12 to the department a proposal to establish a stewardship organization in accordance with the
13 requirements of this subsection.

14 A. A stewardship organization proposal under this subsection must:

15 (1) List the responsible parties that have collectively decided to establish the
16 stewardship organization to manage a packaging stewardship program on their
17 behalf;

18 (2) Describe how the stewardship organization will be designed to successfully
19 operate a packaging stewardship program in the State to collect payments from
20 responsible parties, distribute funding to eligible entities and otherwise administer
21 the program in accordance with this section;

22 (3) Describe how the stewardship organization will establish a state stewardship
23 plan committee to conduct a statewide recycling needs assessment and to develop
24 a stewardship program plan for submission to the department pursuant to
25 subsection 3.

26 (a) The committee described in this subparagraph must include, at a minimum,
27 representation from responsible parties, manufacturers of packaging material,
28 retailers, municipalities, waste and recycling collectors and transporters,
29 recycling and composting facilities and other entities, which may include
30 consultants.

31 (b) The statewide recycling needs assessment described in this subparagraph
32 must, at a minimum, include an evaluation of:

33 (i) Current funding needs affecting recycling access and availability in the
34 State;

35 (ii) The capacity, costs and needs associated with the collection and
36 transportation of recyclable material in the State;

37 (iii) The processing capacity, market conditions and opportunities in the
38 State and regionally for recyclable and compostable material; and

39 (iv) Consumer education needs in the State with respect to recycling and
40 composting and with respect to reducing contamination in collected
41 recyclable and compostable material; and

1 (4) Describe how the stewardship organization will establish a state recycling
2 program committee to provide input regarding the plan to be submitted for
3 department approval under subsection 3 and regarding the operation of the program
4 implemented by the stewardship organization under this section.

5 (a) The stewardship organization shall invite the commissioner or the
6 commissioner's designee to be a member of the committee described in this
7 subparagraph.

8 (b) The committee described in this subparagraph shall include, at a minimum,
9 an individual with expertise in the development of recycling markets, the
10 operator of a recycling facility, a representative of a regional waste
11 management and recycling organization, a representative of the composting
12 industry, a representative of a nonprofit environmental advocacy organization,
13 an individual with expertise in consumer education and an individual with
14 expertise in advanced recycling technology.

15 B. After reviewing a proposal submitted under this subsection to determine whether
16 the proposal meets the requirements of this subsection, the department shall within 60
17 days of receipt of the proposal approve the proposal, approve the proposal subject to
18 certain modifications or reject the proposal. If the department rejects a proposal
19 submitted under this subsection, it shall provide in writing to the person that submitted
20 the proposal a description of the basis for its decision and the person may within 30
21 days of receipt revise and resubmit the proposal to the department for review; the
22 department shall review and approve or reject the revised proposal within 30 days of
23 receipt. The department may approve the establishment of more than one stewardship
24 organization based upon the proposals submitted under this subsection.

25 C. A responsible party may satisfy the requirements of this section by joining a
26 stewardship organization already approved by the department under this section.

27 **3. Submission of plan; implementation; annual update.** On or before October 1,
28 2024, a stewardship organization approved by the department pursuant to subsection 2 shall
29 submit to the department a plan for the establishment of a packaging stewardship program
30 that meets the requirements of this subsection.

31 A. A stewardship program plan under this subsection must:

32 (1) Include contact information for the stewardship organization;

33 (2) Include a list of the responsible parties participating in the stewardship
34 organization;

35 (3) List the brands of covered products and types of packaging material sold,
36 offered for sale or distributed for sale to consumers in or into the State by each
37 responsible party participating in the stewardship organization;

38 (4) Propose criteria and standards to be used to determine the recyclability of
39 packaging material under the program. Such standards and criteria must be
40 consistent with applicable national and international recyclability standards
41 including, but not limited to, relevant standards adopted by ASTM International or
42 the International Organization for Standardization, or successor organizations;

- 1 (5) Include the results of the statewide recycling needs assessment conducted by
2 the state stewardship plan committee established by the stewardship organization
3 pursuant to subsection 2, paragraph A, subparagraph (3);
- 4 (6) Propose recycling and recovery best practice standards that are designed to
5 support the performance goals described in subparagraph (8). The stewardship
6 organization shall demonstrate how the development of the standards involved
7 input from the state stewardship plan committee and the state recycling program
8 committee established pursuant to subsection 2, paragraph A, subparagraphs (3)
9 and (4), respectively. The plan must include a description of how the stewardship
10 organization will determine compliance with those standards by eligible entities as
11 a condition of receiving funding under subsection 6. The standards under this
12 subparagraph must include:
- 13 (a) Minimum standards designed to ensure access to recycling and composting
14 collection or drop-off for residents of the State;
- 15 (b) Minimum technology standards for use by materials recovery facilities and
16 recycling facilities in the State;
- 17 (c) Minimum standards for the types of packaging material that will be
18 accepted for recycling under the program; and
- 19 (d) Wage and safety improvement plans for individuals working at or under
20 municipal recycling and composting sites or programs;
- 21 (7) Include a description of how the stewardship organization intends to provide
22 technical assistance to municipalities with fewer than 2,500 residents in complying
23 with the standards under subparagraph (6) in order to receive funding in accordance
24 with subsection 6. A stewardship organization may suspend the assistance
25 described in this subparagraph when the distributions required under subsection 6
26 exceed the stewardship organization's anticipated annual budget or at such time as
27 the stewardship organization determines that more than 50% of the municipalities
28 described in this subparagraph are able to comply with the standards adopted by
29 the stewardship organization pursuant to subparagraph (6);
- 30 (8) Propose statewide performance goals for each type of packaging material to
31 be managed under the program, which must be designed to be achieved within 5
32 years from the date the plan is approved, be technologically and commercially
33 feasible, support the State's solid waste management hierarchy under section 2101
34 and include goals for:
- 35 (a) Achievement of a statewide recycling rate, recycling access rate,
36 composting rate, contamination rate, waste reduction rate and alternative
37 material recovery rate;
- 38 (b) Recycling quality standards as measured using total commodity revenue,
39 recycled material content use standards, recyclable packaging design
40 standards, greenhouse gas emissions reductions standards and a highest and
41 best use standard for recyclable material; and
- 42 (c) Any other standards, rates or other measures for achieving environmental
43 improvement;

- 1 (9) Include a description of the method by which the stewardship organization will
2 measure its progress toward achievement of the goals described in subparagraph
3 (8), to be implemented no later than one year from the date that the plan is
4 approved;
- 5 (10) Include a description of the method by which the stewardship organization
6 will determine the fees to be paid by each responsible party consistent with the
7 requirements of subsection 4;
- 8 (11) Include a description of the procedures and methodology to be established by
9 the stewardship organization, in consultation with the state stewardship plan
10 committee established pursuant to subsection 2, paragraph A, subparagraph (3), for
11 the distribution of funding pursuant to subsection 6; and
- 12 (12) Include any other information required by the department that is necessary
13 for the department to evaluate the performance goals identified by the stewardship
14 organization under this subsection.
- 15 B. After reviewing a plan submitted under this subsection to determine whether the
16 plan meets the requirements of this subsection, the department shall approve the plan,
17 approve the plan subject to certain modifications or reject the plan. If the department
18 rejects a plan submitted under this subsection, it shall provide in writing to the
19 stewardship organization a description of the basis for its decision and the stewardship
20 organization may revise and resubmit the plan to the department for review.
- 21 C. If the department approves a plan submitted under this subsection, the stewardship
22 organization that submitted the plan shall implement the program proposed in the plan
23 no later than January 1, 2025, unless a later implementation date is approved by the
24 department.
- 25 D. On or before October 1, 2025, and annually thereafter, a stewardship organization
26 that implemented a plan approved under this subsection shall update the plan as
27 necessary to reflect any program changes or other information required by this section
28 or by the department and resubmit the plan to the department for approval in
29 accordance with the requirements of this subsection. At the time that a stewardship
30 organization submits an updated plan to the department pursuant to this paragraph, the
31 stewardship organization shall also report to the department a summary of program
32 activities, including relevant data, for the prior calendar year.
- 33 **4. Responsible party fees; fee adjustments.** Responsible parties participating in a
34 stewardship program shall annually pay to the stewardship organization operating the
35 program the fees required under this subsection.
- 36 A. The stewardship organization shall annually determine the anticipated annual
37 budget for the stewardship organization necessary to manage the program and to
38 achieve progress toward the performance goals adopted pursuant to subsection 3,
39 paragraph A, subparagraph (8). In determining the budget under this paragraph, the
40 stewardship organization shall consider the results of the statewide recycling needs
41 assessment conducted by the state stewardship plan committee pursuant to subsection
42 2, paragraph A, subparagraph (3).

1 B. The stewardship organization shall adopt a fee schedule for determining the amount
2 of the fee to be paid annually by each responsible party that is designed to cover all
3 costs associated with:

4 (1) Implementation of a plan approved under subsection 3, including any
5 associated administrative costs incurred in that implementation by a responsible
6 party or the stewardship organization;

7 (2) The distributions required under subsection 6; and

8 (3) The fees the stewardship organization is required to pay to the department
9 pursuant to subsection 7, paragraph A.

10 C. The fee schedule adopted by the stewardship organization pursuant to paragraph B
11 must allow a responsible party to pay an annual fee determined using the responsible
12 party's annual national sales figures that are attributable to the State as calculated on a
13 per capita basis.

14 D. Following the initial implementation of a plan approved under subsection 3, when
15 directed by the stewardship organization, each responsible party shall annually pay to
16 the stewardship organization the required fee based on the fee schedule adopted under
17 paragraph B, which the stewardship organization shall deposit into the fund established
18 under subsection 5.

19 E. The stewardship organization may accept but may not require payments from
20 responsible parties in the calendar year prior to the calendar year in which a plan
21 approved by the department is initially implemented to cover the stewardship
22 organization's costs of developing the plan and implementing the program. In the event
23 that a responsible party makes such a prospective payment to the stewardship
24 organization prior to initial program implementation, the stewardship organization
25 shall reduce the fee owed by that responsible party during the first calendar year of
26 program operation pursuant to this subsection by an amount equal to the amount of the
27 prospective payment.

28 F. If a responsible party can demonstrate to the satisfaction of the stewardship
29 organization that the packaging material associated with a covered product sold,
30 offered for sale or distributed for sale in or into the State by the responsible party
31 achieved an 80% or greater recycling rate in the State during the prior calendar year,
32 the stewardship organization may reduce the fees owed by the responsible party under
33 this subsection to an amount that represents no more than the costs associated with the
34 transportation for recycling in the State of that packaging material.

35 G. Beginning during the 5th year of program implementation, unless an earlier date is
36 agreed upon by the stewardship organization and the state stewardship plan committee
37 established pursuant to subsection 2, paragraph A, subparagraph (3), the stewardship
38 organization may propose for adoption as part of an updated plan submitted under
39 subsection 3, paragraph D a schedule of fee adjustments for packaging material. In
40 developing such a schedule of fee adjustments, the stewardship organization shall
41 consider as a basis for proposing favorable fee adjustments the following factors:

42 (1) Achievement of recyclability of packaging material that was previously not
43 considered recyclable;

44 (2) Increased use of post-consumer recycled content in packaging material;

1 (3) Achievement by packaging material of the requirements of ISO 18602:2013,
2 the methodologies and procedures for optimization of the packaging system
3 published by the International Organization for Standardization, or successor
4 publication;

5 (4) Demonstration of greenhouse gas emissions reductions relating to the use of a
6 packaging material type associated with a covered product as compared to a
7 previously used packaging material type or as compared to a packaging material
8 type commonly used for similar products; or

9 (5) Achievement of significant reduction in food waste generation or product
10 breakage relating to the use of a packaging material type associated with a covered
11 product as compared to a previously used packaging material type or as compared
12 to a packaging material type commonly used for similar products.

13 H. Nothing in this section prohibits a stewardship organization from establishing and
14 requiring by private agreement or contract the payment of other fees associated with a
15 covered product's supply chain by 3rd parties that are not responsible parties.

16 **5. Packaging stewardship fund.** In accordance with the provisions of this subsection,
17 a stewardship organization shall establish and manage a packaging stewardship fund. The
18 stewardship organization shall deposit into the fund all payments received from responsible
19 parties pursuant to subsection 4 and shall distribute from the fund payments authorized
20 pursuant to subsection 6.

21 A. In addition to the distributions authorized pursuant to subsection 6, the stewardship
22 organization may expend from the fund those payments necessary to cover the
23 stewardship organization's reasonable operating expenses and administrative costs.

24 B. In establishing the fund under this subsection, the stewardship organization shall
25 ensure that, in the event that the stewardship organization ceases to exist or the
26 department withdraws its approval for the program that the stewardship organization
27 had previously implemented, the funds within the fund remain within the fund until
28 they can be transferred to a successor stewardship organization or the department
29 approves the stewardship organization's continued operation of the program.

30 **6. Payments to support operational recycling costs; recycling improvement**
31 **grants.** In accordance with the provisions of this subsection, a stewardship organization
32 shall distribute from the fund payments to support the operational recycling costs of eligible
33 entities and grants to improve recycling infrastructure in the State.

34 A. Based on the statewide recycling needs assessment under subsection 3, paragraph
35 A, subparagraph (5) and considering the performance goals established pursuant to
36 subsection 3, paragraph A, subparagraph (8), the stewardship organization shall
37 annually determine the amount of funds anticipated to be available within the fund
38 under subsection 5 for distribution pursuant to this paragraph to offset certain
39 operational recycling costs incurred by eligible entities.

40 (1) For the purposes of this paragraph, an eligible entity is a municipality, a refuse
41 disposal district under chapter 17 or a regional association in the State that:

42 (a) Demonstrates to the satisfaction of the stewardship organization that the
43 entity has complied with or achieved measurable progress toward complying

1 with the recycling and recovery best practice standards adopted pursuant to
2 subsection 3, paragraph A, subparagraph (6);

3 (b) Reports to the stewardship organization in a manner prescribed by the
4 organization the amount of packaging material it collected, processed and
5 recycled or composted during the prior calendar year; and

6 (c) As directed by the stewardship organization, provides any other
7 information necessary for the stewardship organization to calculate for that
8 entity the distributions described in subparagraph (2).

9 If a municipality, refuse disposal district or regional association contracts with a
10 private entity for the collection, transportation, processing and recycling of
11 packaging material, the stewardship organization shall consider the private entity
12 to be an eligible entity under this subparagraph and, as appropriate, shall distribute
13 the amounts calculated pursuant to subparagraph (2) to that private entity as long
14 as the private entity meets the requirements of divisions (a) to (c).

15 (2) The stewardship organization shall annually distribute to each eligible entity
16 the following amounts:

17 (a) A fixed amount for each ton or a per capita amount for packaging material
18 recycled by the entity in the prior calendar year based upon the average costs
19 associated with the transportation, from a central location within a
20 municipality, of collected packaging material from the municipality to a
21 recycling facility; the processing of and removal of contamination from
22 packaging material by a recycling facility; and the recycling or composting of
23 packaging material in the State or in another jurisdiction less the average fair
24 market value in the State for that packaging material. In determining costs
25 under this division, the stewardship organization may not include costs
26 associated with the landfill disposal of packaging material, except for costs
27 associated with the landfill disposal of contaminated materials removed from
28 collected packaging material; and

29 (b) An additional fixed amount for each ton or a per capita amount for
30 packaging material that is not considered recyclable pursuant to this section
31 that are recycled, composted or otherwise diverted from landfill disposal by
32 the entity in the prior calendar year less the average fair market value in the
33 State for that packaging material.

34 B. Based on the statewide recycling needs assessment described pursuant to subsection
35 3, paragraph A, subparagraph (5) and considering the performance goals established
36 pursuant to subsection 3, paragraph A, subparagraph (8), the stewardship organization
37 shall annually determine the amount of funds anticipated to be available within the
38 fund under subsection 5 for distribution pursuant to this paragraph in the form of grants
39 to eligible entities to support improvements in recycling infrastructure.

40 (1) For the purposes of this paragraph, an eligible entity is a municipality, a refuse
41 disposal district under chapter 17, a regional association or a private entity in the
42 State that:

43 (a) Submits a grant proposal to the stewardship organization designed to
44 improve recycling infrastructure in the State;

1 (b) Describes in the grant proposal under division (a) how the grant will
2 promote compliance with the recycling and recovery best practice standards
3 adopted pursuant to subsection 3, paragraph A, subparagraph (6); and

4 (c) As directed by the stewardship organization, provides as part of the grant
5 proposal under division (a) all other information necessary for the stewardship
6 organization to evaluate the proposal.

7 (2) Subject to the availability of funds as determined under this paragraph, after
8 annually soliciting grant proposals under this paragraph from eligible entities and
9 reviewing all such grant proposals received, the stewardship organization shall
10 distribute grants to fund those proposals, or a portion of those proposals, based on
11 the following order of priority:

12 (a) Proposals designed to support or improve end market development
13 programs or infrastructure in the State;

14 (b) Proposals designed to support or improve recyclable material sorting or
15 processing technology or infrastructure in the State;

16 (c) Proposals designed to support or improve advanced recycling technology
17 or infrastructure in the State;

18 (d) Proposals designed to support or expand composting infrastructure in the
19 State; and

20 (e) Proposals designed to increase consumer education in the State regarding
21 accessing recycling infrastructure and reducing contamination in recycling.

22 C. In consultation with the state stewardship plan committee established pursuant to
23 subsection 2, paragraph A, subparagraph (3), the stewardship organization shall adopt
24 methods for the reporting or submission of the information required to obtain eligibility
25 for the distributions under paragraph A or the grants under paragraph B that are not
26 unduly burdensome on the entities that may be reporting or submitting that
27 information. As determined pursuant to subsection 3, paragraph A, subparagraph (7),
28 if the stewardship organization has elected to provide technical assistance in complying
29 with the requirements of this subsection to municipalities with fewer than 2,500
30 residents, the stewardship organization shall establish procedures or programs to
31 facilitate the provision of that technical assistance.

32 **7. Administration and enforcement; rulemaking; fees; report.** The department
33 shall administer and enforce this section and may adopt rules as necessary to implement
34 this section. Rules adopted pursuant to this subsection are routine technical rules as defined
35 in Title 5, chapter 375, subchapter 2-A.

36 A. At the time that a stewardship organization submits a plan to the department
37 pursuant to subsection 3 to initially establish a stewardship program, and annually
38 thereafter, the department shall require the stewardship organization to pay to the
39 department a reasonable annual fee established by the department, not to exceed
40 \$300,000, to cover the department's actual costs for review of the plan and the costs in
41 the prior fiscal year for the department's oversight, administration and enforcement of
42 the program implemented by the stewardship organization pursuant to this section. At
43 the time that one or more responsible parties submit a proposal to the department
44 pursuant to subsection 2 to establish a stewardship organization, the department shall

1 require the payment of a reasonable one-time fee to cover the department's actual costs
2 for review of the proposal.

3 B. Beginning February 15, 2025, and annually thereafter, the department shall submit
4 a report to the joint standing committee of the Legislature having jurisdiction over
5 environment and natural resources matters regarding the packaging stewardship
6 programs implemented pursuant to this section. The report required under this
7 paragraph may be included in the report required pursuant to section 1772, subsection
8 1.

9 C. The department shall monitor actions at the federal level regarding the
10 establishment of similar stewardship programs for covered products and shall include
11 information regarding those actions in the report required under paragraph B. If the
12 department determines that legislation is enacted or programs are established at the
13 federal level that achieve the goals of this section, the department shall recommend in
14 the report required under paragraph B that this section be repealed or amended as
15 necessary.

16 **8. Antitrust exclusions.** A responsible party or a stewardship organization, including
17 a responsible party's or stewardship organization's officers, members, employees and
18 agents that organize a packaging stewardship program under this section, is immune from
19 liability for the responsible party's or stewardship organization's conduct under state laws
20 relating to antitrust, restraint of trade, unfair trade practices and other regulation of trade or
21 commerce only to the extent necessary to plan and implement the responsible party's or
22 stewardship organization's packaging stewardship program consistent with the provisions
23 of this section.

24 **9. Preemption.** To ensure maximum effectiveness through uniform statewide
25 application, beginning January 1, 2025, the State intends to occupy the whole field of
26 regulation of stewardship programs for covered products and packaging material consistent
27 with the provisions of this section. A local government may not adopt an ordinance
28 establishing, requiring the establishment of or otherwise regulating stewardship programs
29 for covered products and packaging material and, beginning January 15, 2025, any
30 ordinance or regulation that violates this subsection is void and has no force or effect.'

31 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
32 number to read consecutively.

33 **SUMMARY**

34 This amendment, which is a minority report of the committee, replaces the bill. It
35 facilitates the establishment of one or more stewardship programs in the State for packaging
36 material to be operated by a stewardship organization approved by the Department of
37 Environmental Protection. Under such a program, the plan for which must be approved by the
38 department and annually updated following a department review, participating responsible
39 parties that sell, offer for sale or distribute for sale in or into the State certain products contained,
40 protected, delivered, presented or distributed in or using packaging material are required to pay
41 fees related to the packaging material associated with those products.

42 Responsible party payments received by a stewardship organization are used to offset
43 operational recycling costs incurred by entities meeting certain eligibility requirements, which
44 may include municipalities, refuse disposal districts and regional waste management

1 associations in the State. Responsible party payments are also used to fund grants to entities
2 meeting certain eligibility requirements, which may include municipalities, refuse disposal
3 districts, regional waste management associations and private entities in the State, to support
4 improvements in recycling infrastructure in the State.

5 **FISCAL NOTE REQUIRED**

6 **(See attached)**