HF 2149:

A Well-Intended But Flawed Bill That Will Drive Up Grocery Prices & Hurt Minnesota Businesses

The Consumer Grocery Pricing Fairness Act seeks to promote fairness in grocery pricing, but in reality, it goes **far beyond federal law**, will **increase costs for Minnesota families**, and make it **harder for Minnesota businesses to compete**.

Why Is This Bill Is Bad for Minnesotans?

✘ Increases Grocery Prices for Minnesota Families

- The bill restricts competitive pricing by forcing suppliers to offer identical terms to all retailers, regardless of size or efficiency.
- Retailers negotiate bulk discounts that allow them to keep food affordable—this bill eliminates that ability, forcing prices up for consumers as retailers lose the ability to compete on price based on their individual business models and efficiencies.
- Compliance requirements for suppliers and retailers would create additional administrative burdens. These additional costs would likely be passed on to consumers through higher prices.

✘ Punishes Efficiency & Hurts Small Businesses

- Many local and on-line retailers benefit from wholesaler and supplier flexibility. This bill limits their ability to get competitive deals that ultimately save consumers money.
- In fact, small retailers sometimes get special pricing that multi-state retailers don't, with better supply chain access. That's how competition works.
- The bill treats efficiency gains as unfair pricing, even when businesses legitimately reduce costs through logistics, self-distribution, or innovation.

✘ Creates Supply Chain Issues

- The bill forces suppliers to disclose pricing contracts with large retailers, a precedent that could violate business confidentiality.
- It discourages suppliers from offering regional promotions and volume-based deals, which will increase costs and reduce product availability for all businesses.

✘ Gives the Government Too Much Control Over the Private Market

- The bill empowers the Attorney General and private attorneys to sue over price differences, even when they have nothing to do with unfair competition.
- Minnesota is already facing rising food costs. The last thing we need is government micromanaging grocery pricing and supply agreements.

✘ Goes Well Beyond and Likely Conflicts with Federal Law

This bill dramatically expands government control over grocery pricing in ways that federal law does not. Unlike the federal Robinson-Patman Act, which only applies when price discrimination harms competition, this bill:

- Forces suppliers to offer identical terms to all retailers. Federal law does not require this.
- Mandates that suppliers disclose contract terms to competitors. Federal law protects pricing confidentiality.

- Prohibits suppliers from refusing to sell to smaller retailers, even if it is commercially reasonable. Federal law does not dictate supplier-retailer relationships this way.
- Expands enforcement power, allowing lawsuits for price differences even when no harm to competition is proven. Federal law requires evidence of harm.
- Targets dominant retailers for legal restrictions. Federal law focuses on ensuring fair competition without directly penalizing size or scale.

This bill likely has constitutional issues as the Supremacy Clause (U.S. Constitution, Article VI) states that federal law overrides state law when there is a conflict. A court could rule that Minnesota cannot regulate national grocery pricing structures in a way that conflicts with existing federal law.

What Are "Covered Goods"?

- **Grocery items**, such as dairy products, meat, poultry and fish, bread, cereals and grains, fruits and vegetables, non-alcoholic beverages.
- **Consumer packaged goods**, such as personal care products (e.g., shampoo, toothpaste, soap), cleaning products (e.g., detergents, paper towels), packaged snacks and pantry staples, frozen and refrigerated foods, ready-to-eat meals and non-perishable food items.
- **Not included**: gasoline, prescription drugs, tobacco products, alcoholic beverages.

Who Is Directly Impacted?

- **"Covered Suppliers"**: All manufacturers or producers of grocery items or consumer packaged goods that sell over $6 billion annually.
- **"Covered Wholesalers"**: Businesses that purchase covered goods for resale to covered retailers.
- **"Covered Retailers"**: Retailers selling covered goods to consumers.
- **"Dominant Covered Retailers"**: Large retailers with over $18 billion in grocery sales annually and locations in at least 20 states.

What's the Alternative?

Instead of imposing rigid and costly mandates, Minnesota should focus on real solutions that protect competition and lower prices, including:

- Supporting small retailers through flexibility, tax relief, regulatory reform, and reduced workplace mandates.
- Addressing real monopolistic practices without harming competitive pricing.
- Encouraging free-market competition and innovation to keep grocery prices low.

This bill doesn't help consumers, doesn't help small businesses, and will only make grocery shopping more expensive in Minnesota.