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MARK A. VARGO
ATTORNEY GENERAL

RECEIVED

OCT 24 2022

SD Secretary of State

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

October 24, 2022

Honorable Steve Barnett
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Attorney General's Statement (Initiated Constitutional Amendment:
Sales Tax on Eating and Drinking)

Dear Secretary Barnett,

Enclosed is a copy of a proposed constitutional amendment, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed *draft* Attorney General's Statement for the purposes of receiving public comment on the same.

By copy of this letter, I am providing a copy of the *draft* Statement to the sponsor.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Mark A. Vargo".

Mark A. Vargo
ATTORNEY GENERAL

MAV/dd
Enc.

Cc/encl: Richard P. Weiland
Reed Holwegner – Legislative Research Council

Filed this 24th day of
October, 2022

A handwritten signature in black ink, appearing to read "Steve Barnett".
SECRETARY OF STATE

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OCT 24 2022

SD Secretary of State

August 26, 2022

Mark.Vargo@state.sd.us
Attorney General Mark Vargo
1302 E. Hwy. 14, #1
Pierre, SD 57501

Reed.Holwegner@sdlegislature.gov
Director Reed Holwegner
Legislative Research Council
500 E. Capitol Ave.
Pierre, SD 57501

Steve.Barnett@state.sd.us
Secretary of State Steve Barnett
Capitol Building
500 E. Capitol Ave. Ste 204
Pierre, SD 57501

Gentlemen:

In accordance with SDCL 12-13-25.1, I submit the following proposed initiated amendment to the Constitution in final form:

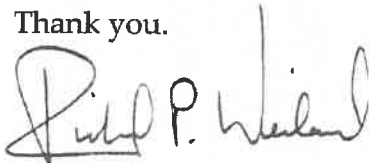
BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

That Article XI of the Constitution of the State of South Dakota be amended by adding a NEW SECTION to read:

The state may not tax the sale of anything sold for eating or drinking by humans, except alcoholic beverages and prepared food.

I ask that the Attorney General prepare the necessary title and explanation for this initiated amendment. Per SDCL 2-9-30, I ask that the Director of the Legislative Research Council prepare the necessary fiscal note for this initiated amendment.

Thank you.



Richard P. Weiland
Dakotans for Health
P.O. Box 2063
Sioux Falls, SD 57101

Filed this 24th day of

October, 2022


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CONSTITUTIONAL AMENDMENT
DRAFT ATTORNEY GENERAL'S STATEMENT

SD Secretary of State

Title: An Initiated Amendment Prohibiting Taxes on Anything Sold for Eating or Drinking.

Explanation:

Currently, the state collects tax on the sale or use of certain foods or drinks. Many municipalities also collect tax on the sale or use of foods or drinks.

This initiated amendment overrides existing laws and prohibits the state, or municipalities, from collecting sales or use tax on anything sold for eating or drinking by humans. The amendment eliminates these sources of revenue.

The amendment does not prohibit the collection of sales or use tax on alcoholic beverages or prepared food. Prepared food is defined by law to include food that is sold heated or with utensils.

Judicial clarification of the amendment may be necessary. The Legislature cannot alter the provisions of a constitutional amendment.

Filed this 24th day of
October, 2022
Steve Barnett
SECRETARY OF STATE