

STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

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**RECEIVED**

OCT 24 2022

**SD Secretary of State**

**MARK A. VARGO**  
ATTORNEY GENERAL

**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 Measure: Sales Tax on Eating and Drinking)

Dear Secretary Barnett,

Enclosed is a copy of a proposed initiated measure, 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 24<sup>th</sup> day of

October, 2022

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

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**SD Secretary of State**

INITIATED MEASURE

DRAFT ATTORNEY GENERAL'S STATEMENT

Title: An Initiated Measure 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 measure prohibits the state, or municipalities, from collecting sales or use tax on anything sold for eating or drinking by humans. The measure eliminates these sources of revenue.

The measure 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 or legislative clarification of the measure may be necessary.

Filed this 24<sup>th</sup> day of

October 2022

*Steve Barnett*

SECRETARY OF STATE

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**SD Secretary of State**

August 26, 2022

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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 measure in final form:

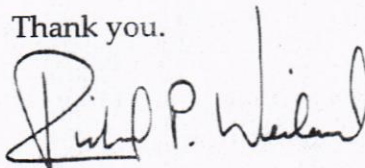
**BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:**

*That Title 10 be amended by adding a NEW SECTION to read:*

**Notwithstanding any other provision of law, 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 measure. Per SDCL 2-9-30, I ask that the Director of the Legislative Research Council prepare the necessary fiscal note for this initiated measure.

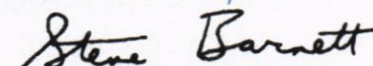
Thank you.



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

Filed this 24<sup>th</sup> day of

October, 2022

  
SECRETARY OF STATE