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January 5, 2023

RECEIVED

JAN 05 2023

SD Secretary of State

Hon. Monae Johnson
Secretary of State
500 E Capitol Avenue
Pierre, SD 57501

Dear Secretary Johnson,

The Legislative Research Council (LRC) received an initiated measure to reduce the tax on anything sold for human consumption, except alcoholic beverages and prepared food. The initiated measure requires a fiscal note because it was determined it may have an impact on revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions. SDCL 2-9-31 requires the fiscal note be no longer than fifty words. If this measure is approved by the people of South Dakota, the measure will take effect on July 1, 2025.

The fiscal note examines the fiscal impacts associated with no longer taxing anything sold for human consumption, except alcoholic beverages and prepared food. The methodology revolves around calculating the revenue generated with and without the exemption based the proportion of total expenditures attributable to food. Data on expenditures of food at home from the U.S. Bureau of Labor Statistics, income elasticity of consumption, state sales tax revenues, and other research and data contributed to this methodology. The South Dakota Department of Revenue was contacted to provide relevant data for this analysis.

The model produced an estimate showing a reduction in state sales tax of \$123.9 million for fiscal year FY2026, beginning July 1, 2025. Municipalities could still tax anything sold for human consumption. The actual amount of state sales tax revenue lost will vary from this estimate, as it is a point-in-time estimate completed at least two years prior to implementation.

In any fiscal estimate, assumptions must be made as to future economic activity and the meaning of words found in the initiated proposal filed with the Secretary of State. In neither the draft proposal nor the LRC's review, dated December 2, 2022, is the phrase "anything sold for human consumption" used or suggested. For purposes of this fiscal note, the LRC assumes that phrase only includes food items because of the modifying language "except alcoholic beverages and prepared food" and does not personal tangible property and services, both of which can also be sold for human consumption. Other assumptions as to the meaning of this phrase may be just as reasonable, if not more so.

Filed this 26th day of

January

Monae L. Johnson

SECRETARY OF STATE

Enclosed is a copy of the initiated measure, in final form, that was submitted to this office. In accordance with SDCL 2-9-31, I hereby submit the Legislative Research Council's fiscal note with respect to this initiated measure.

Sincerely,

A handwritten signature in cursive script that reads "Reed Holwegner".

Reed Holwegner
Director

Enclosures

Cc: Rick Weiland
Mark Vargo, Attorney General

SOUTH DAKOTA LEGISLATIVE RESEARCH COUNCIL

FISCAL NOTE

INITIATED MEASURE

**AN INITIATED MEASURE –
THE STATE MAY NOT TAX THE SALE OF ANYTHING SOLD FOR HUMAN
CONSUMPTION, EXCEPT ALCOHOLIC BEVERAGES AND PREPARED FOOD.**

Beginning July 1, 2025, the State could see a reduction in sales tax revenues of \$123.9 million annually from no longer taxing the sale of anything sold for human consumption, except alcoholic beverages and prepared food. Municipalities could continue to tax anything sold for human consumption.

Approved: *Reed Holwegner* Date: *January 5, 2023*
Director, Legislative Research Council

December 7, 2022

By email and U.S. Mail

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Pierre, SD 57501

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Director Reed Holwegner, LRC
500 E. Capitol Ave.
Pierre, SD 57501

Monae.Johnson@state.sd.us
Secretary of State Monae Johnson
500 E. Capitol Ave. Ste. 204
Pierre, SD 57501

Greetings:

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

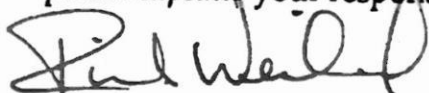
BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

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 human consumption, except alcoholic beverages and prepared food. Municipalities may continue to impose such taxes.

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

Because of the delay in our ability to begin collecting signatures caused by the Attorney General's misinterpretation of our previous submission on this subject, please *expedite* your response to this request. Thank you.



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