

**Circulator Handout: Initiated Amendment to Repeal State's 4.5% Tax on Groceries**

**Attorney General's Title:** An Initiated Amendment Prohibiting Taxes on Anything Sold for Human Consumption.

**Attorney General's Explanation:** Currently, the State collects tax on the sale or use of certain goods, including foods and drinks. Many municipalities also collect these taxes. This initiated amendment overrides existing laws and prohibits the State from collecting sales or use tax on anything sold for human consumption. The amendment eliminates these sources of revenue for the State. Human consumption is not defined by state law. However, its common definition includes more than foods and drinks. 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. The amendment may affect the State's obligations under the tobacco master settlement agreement and the streamlined sales tax agreement. The master settlement agreement resulted from multi-state lawsuits against cigarette manufacturers for the public health effects of smoking. South Dakota's annual share of the master settlement agreement is approximately \$20 million. The streamlined sales tax agreement is a multistate program designed to simplify the collection of sales and use tax for companies selling in multiple jurisdictions. Judicial clarification of the amendment will be necessary. The Legislature cannot alter the provisions of a constitutional amendment.

**Fiscal Note:** 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 eating or drinking by humans except alcoholic beverages and prepared food. Municipalities could continue to tax anything sold for human consumption.

**Sponsor:** Richard P. Weiland | 605-610-8146 | info@dakotans4health.com

**Circulator:** This circulator is paid \$20/hour

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Filed this 25<sup>th</sup> day of April 2023

*Monae L. Johnson*

SECRETARY OF STATE

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