

**STATE OF SOUTH DAKOTA  
OFFICE OF THE GOVERNOR  
EXECUTIVE ORDER 2021-02**

**Whereas**, as Governor of the Great State of South Dakota, I took an oath to uphold the freedoms and liberties of all South Dakotans guaranteed by the Constitutions of our state and of our country; and,

**Whereas**, Article IV Section 3 of the South Dakota Constitution sets forth some of my powers as Governor, and provides in relevant part:

*“The Governor shall be responsible for the faithful execution of the law. He may, by appropriate action or proceeding brought in the name of the state, enforce compliance with any constitutional or legislative mandate, or restrain violation of any constitutional or legislative power, duty or right by any officer, department or agency of the state or any of its civil divisions.”*; and,

**Whereas**, my oath to support and defend the Constitution means ensuring that the Constitution is not violated, and it is part of my duty as Governor to defend it; and,

**Whereas**, on November 4, 2019, an Initiated Constitutional Amendment Petition was filed for validation with the Secretary of State, purporting to propose “An amendment to the South Dakota Constitution to legalize, regulate, and tax marijuana; and to require the Legislature to pass laws regarding hemp as well as laws ensuring access to marijuana for medical use.” The Secretary of State validated the proposed amendment, and it was placed on the ballot for a public vote; and,

**Whereas**, the initiative process used to place Constitutional Amendment A on the ballot was not proper and violated the procedures set forth in the South Dakota Constitution; and,

**Whereas**, pursuant to Article IV Section 3 of the South Dakota Constitution and my oath, I may restrain this violation of the Constitution by appropriate action or proceeding brought in the name of the state; and,

**Whereas**, upon my prior instruction, Colonel Rick Miller, Superintendent of the South Dakota Highway Patrol, commenced the following proceedings (collectively referred to hereinafter as the “Amendment A Litigation”):

*In the Matter of Election Contest as to Amendment A*, Sixth Circuit Case No. 32CIV20-186;

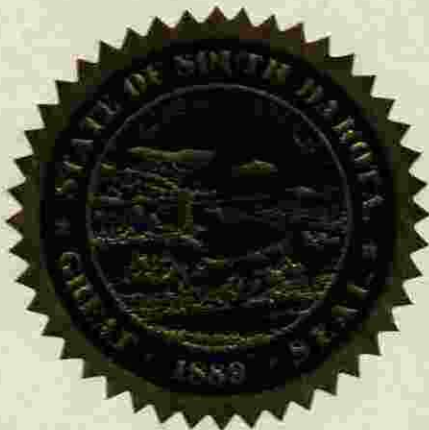
*Sheriff Kevin Thom, In His Official Capacity as Pennington County Sheriff, and Colonel Rick Miller, In His Official Capacity as Superintendent of the South Dakota Highway Patrol v. Steve Barnett. In His Official Capacity as South Dakota Secretary of State*, Sixth Circuit Case No. 32CIV20-187; and,

**Whereas**, the claims brought by both Sheriff Kevin Thom, in his official capacity as Sheriff of Pennington County, and Colonel Rick Miller, in his official capacity as Superintendent of the South Dakota Highway Patrol, are claims that the South Dakota Constitution expressly provides I may bring in the name of the State;

**NOW THEREFORE**, by virtue of the authority vested in me by the Constitution and the laws of the State of South Dakota in my capacity as the duly elected Governor of South Dakota, by this Executive Order, I do hereby **order and declare the following**:

1. Commencement of the Amendment A Litigation is consistent with my executive power, described in Article IV Section 3 of the South Dakota Constitution, which is a power I may properly delegate.
2. On November 20, 2020, I directed Colonel Rick Miller to commence the Amendment A Litigation on my behalf in his official capacity. At all times thereafter, Colonel Rick Miller has acted as petitioner and plaintiff in the Amendment A Litigation under my direction and pursuant to a delegation of my Constitutional authority under Article IV Section 3.
3. Pursuant to SDCL 15-6-17(a), the commencement and continued prosecution of the Amendment A Litigation is hereby ratified and affirmed in all respects.

Dated in Pierre, South Dakota this 8th day of January, 2021.



Kristi Noem  
Governor of South Dakota

ATTEST:

Steve Barnett  
Secretary of State