

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

229M0660

HOUSE CONCURRENT RESOLUTION NO. 1004

Introduced by: Representatives Hennies, Boomgarden, Brunner, Buckingham, Cutler, Davis, Deadrick, Dykstra, Elliott, Faehn, Frost, Fryslie, Garnos, Gassman, Gillespie, Glenski, Glover, Hackl, Haley, Halverson, Hanks, Hargens, Haverly, Heineman, Hills, Howie, Hunhoff, Hunt, Jensen, Jerke, Koistinen, Kraus, Krebs, Kroger, Lange, McCoy, McLaughlin, Michels, Miles, Murschel, Nelson, Novstrup, O'Brien, Pederson (Gordon), Peters, Putnam, Rausch, Rave, Rhoden, Roberts, Rounds, Schafer, Sebert, Sigdestad, Street, Thompson, Tidemann, Tornow, Turbiville, Valandra, Van Etten, Van Norman, Vehle, Weems, Wick, and Willadsen and Senators Koskan, Abdallah, Adelstein, Bartling, Bogue, Broderick, Dempster, Duenwald, Duniphan, Earley, Gant, Gray, Greenfield, Hansen (Tom), Hanson (Gary), Hundstad, Kelly, Knudson, Koetzle, Kooistra, Lintz, McCracken, McNenny, Moore, Napoli, Olson (Ed), Peterson (Jim), Schoenbeck, Smidt, Sutton (Dan), Sutton (Duane), and Two Bulls

1 A CONCURRENT RESOLUTION, Urging the voters of South Dakota to reject the Judicial
2 Accountability Initiated Law (J.A.I.L.), which will be submitted to South Dakota voters in
3 November 2006, designated Amendment E.

4 WHEREAS, Amendment E was drafted by a resident of California and the petitions were
5 circulated by paid out-of-state persons; and

6 WHEREAS, the Amendment E petition failed to get more than a few thousand signatures
7 in California, and thus was never submitted to California voters; and

8 WHEREAS, South Dakota voters were told that Amendment E simply provided for a
9 remedy for intentional judicial misconduct; and



1 WHEREAS, if approved by the voters, Amendment E would actually allow lawsuits against
2 all South Dakota citizen boards, including county commissioners, school board members, city
3 council members, planning and zoning board members, township board members, public
4 utilities commissioners, professional licensing board members, jurors, judges, prosecutors, and
5 all other citizen boards; and

6 WHEREAS, Amendment E would authorize and encourage jury nullification in South
7 Dakota, which was previously rejected overwhelmingly by South Dakota voters in 2002; and

8 WHEREAS, Amendment E would prohibit summary judgment, a legal remedy currently
9 available and used to quickly and inexpensively rid our courts of frivolous lawsuits; and

10 WHEREAS, Amendment E would permit convicted felons, whose convictions have been
11 affirmed by our Supreme Court, to sue the prosecutors who prosecuted the felons, the jurors
12 who voted to convict the felons, and the judges who sentenced the felons, thus burdening our
13 courts and citizens with countless expensive and needless lawsuits; and

14 WHEREAS, the author of Amendment E has publicly stated that with the passage of
15 Amendment E, Judicial Accountability Initiated Law members from across the country will
16 "purposely drive to South Dakota...just for the privilege of getting a traffic ticket so you can
17 demand a jury trial. I anticipate traffic courts to be among the first courts to all but totally
18 close...," thus depriving South Dakota citizens of their constitutional right of access to our courts
19 and making it clear that Amendment E is not intended to help cure any alleged problems with
20 South Dakota courts; and

21 WHEREAS, if approved, Amendment E would establish a new entity to investigate
22 complaints with an initial budget of two million six hundred fifty thousand dollars, plus the cost
23 of a facility, with authority to hire as many employees as it deemed appropriate without
24 legislative appropriation, consultation, review, or approval; and

1 WHEREAS, the South Dakota Constitution already provides for the Judicial Qualifications
2 Commission, which hears complaints and investigates allegations of judicial misconduct, and
3 operates very economically, with an average annual expenditure of eleven thousand five
4 hundred fifty-nine dollars over the past ten years; and

5 WHEREAS, if approved, Amendment E would violate the federal Constitution, thereby
6 subjecting South Dakota taxpayers to millions of dollars in damages and attorney fees; and

7 WHEREAS, Amendment E would be devastating to the South Dakota economy, harming
8 economic development and driving existing businesses from South Dakota:

9 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Eighty-
10 first Legislature of the State of South Dakota, the Senate concurring therein, that the South
11 Dakota Legislature strongly urges all South Dakota voters to protect our citizen boards, to
12 protect our system of justice, to protect economic development, to protect all our citizens from
13 frivolous lawsuits that would be authorized by the Judicial Accountability Initiated Law, and
14 to vote against Amendment E.