

HOUSE CONCURRENT RESOLUTION NO. 1004

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

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

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

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

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

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

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

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

WHEREAS, the author of Amendment E has publicly stated that with the passage of Amendment E, Judicial Accountability Initiated Law members from across the country will "purposely drive to South Dakota...just for the privilege of getting a traffic ticket so you can demand a jury trial. I anticipate traffic courts to be among the first courts to all but totally close....," thus depriving South Dakota citizens of their constitutional right of access to our courts and making it clear that

Amendment E is not intended to help cure any alleged problems with South Dakota courts; and

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

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

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

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

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

Adopted by the House of Representatives,  
Concurred in by the Senate,

February 02, 2006  
February 16, 2006

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Matthew Michels  
Speaker of the House

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Karen Gerdes  
Chief Clerk of the House

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Dennis Daugaard  
President of the Senate

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Patricia Adam  
Secretary of the Senate

[Add Notes](#)**House Concurrent Resolution 1004**

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