

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

400B0395

HOUSE BILL NO. 1264

Introduced by: The Committee on Appropriations at the request of the Office of the
Governor

1 FOR AN ACT ENTITLED, An Act to authorize the payment of a self-insured retention on a
2 cyber liability insurance policy from the extraordinary litigation fund, to make an
3 appropriation for the payment of extraordinary litigation expenses, and to declare an
4 emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. That § 1-14-3.1 be amended to read:

7 1-14-3.1. There is established in the state treasury the extraordinary litigation fund. The fund
8 shall be maintained separately and administered by the Bureau of Administration. The fund may
9 be used for plaintiff attorney fee awards, retention of outside counsel, settlement costs, or other
10 litigation expenses not otherwise eligible to be paid under § 3-22-1. The fund may also be used
11 for the payment of any self-insured retention for which the state is responsible under a cyber
12 liability insurance policy purchased by the state. Unexpended money and any interest that may
13 be credited to the fund shall remain in the fund. The extraordinary litigation fund, including any
14 subfunds created within it, is hereby continuously appropriated and shall be budgeted through
15 the informational budget process. The creation and funding of this fund does not constitute a



1 waiver of the state's sovereign immunity.

2 The life protection subfund is established within the extraordinary litigation fund. The
3 subfund shall be used to cover the litigation costs, including expert witness fees and attorney
4 fees awarded under 42 U.S.C. § 1988 or other applicable statutes, associated with defending
5 South Dakota statutes that regulate or proscribe abortion or contraception. In addition to moneys
6 that the Legislature may appropriate to the subfund, the commissioner of the Bureau of
7 Administration may accept private contributions for the subfund's purposes and deposit those
8 moneys in the subfund. The life protection litigation subfund shall retain the interest income
9 derived from the moneys credited to the subfund in accordance with § 4-5-30.

10 Section 2. There is hereby appropriated from the general fund the sum of two million three
11 hundred thousand dollars (\$2,300,000), or so much thereof as may be necessary, to the
12 extraordinary litigation fund for payment of eligible expenses.

13 Section 3. The commissioner of the Bureau of Administration shall approve vouchers and
14 the state auditor shall draw warrants to pay expenditures authorized by this Act.

15 Section 4. Any amounts appropriated in this Act not lawfully expended or obligated shall
16 revert in accordance with the procedures prescribed in chapter 4-8.

17 Section 5. Whereas, this Act is necessary for the support of the state government and its
18 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
19 full force and effect from and after its passage and approval.