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TO: Law Enforcement and Interested Persons

FROM: Grant M. Flynn, Assistant Attorney General

RE: **2025 Legislative Summary**

The 2025 South Dakota Legislature considered 451 pieces of legislation. The House introduced 269 bills, and the Senate introduced 220 bills. The Governor signed 211 bills into law. The Governor vetoed two pieces of legislation, and the Legislature sustained both of the Governor's vetoes.¹

The Attorney General requested the introduction of seven pieces of legislation during the 2025 Legislative Session. The Legislature adopted six of the bills and the Governor signed all six bills into law. Of the six bills that were passed into law, five of them were amended during the process.

SB 57 attempted to revise presumptive probation. The bill added the following crimes to the list of those that were exempted from presumptive probation: Second Degree Eluding (SDCL 32-33-18.2), Threatening a Law Enforcement Officer (SDCL 22-11-15.5), Failure to Appear – Felony (SDCL 23A-43-31(1)), Threatening a Judicial/Constitutional Officer (SDCL 22-11-15.7). The bill further clarified that anyone currently on parole or probation supervision was not eligible for presumptive probation. After passing the Senate, SB 57 was deferred to the 41st Legislative Day by the House Judiciary Committee on a vote of 9-3.

SB 58 revised provisions related to human trafficking. This bill brought South Dakota's human trafficking laws more in line with the federal laws. The bill further introduced mandatory minimums for human trafficking crimes. The revisions are found in SDCL Ch. 22-49.

¹ HB 1132 (establish provisions for eligibility in the child care assistance program for certain child care employees); HB 1169 (modify the signature requirement for a petition to initiate a constitutional amendment).

SB 59 amended provisions related to delivery and possession of unauthorized articles within the penitentiary. The bill added cell phones to the list of items that constitute an unauthorized article. The bill also replaced the phrase “article of indulgence” with a more firm definition of what items are not allowed to be possessed within the prison. These changes are found at SDCL Ch. 24-2.

SB 60-63 constituted the Attorney General’s Offices Government Accountability Legislative Package. These bills were designed to work in tandem to increase the oversight and accountability of state government employees to thwart further crimes of dishonesty by state employees and to provide prosecutors additional tools to hold bad actors accountable.

SB 60 expanded the access and investigatory authority of the state auditor by granting the auditor’s office direct access to state financial records. These changes are codified at SDCL Ch. 1-9 and 4-7. **SB 61**, meanwhile, expanded the authority, specifically the rulemaking power, of the Board of Internal Controls to allow the Board oversight in addition to policy setting. These changes are found at SDCL Ch. 1-56.

SB 62 established a crime for failing to report improper governmental conduct and conflicts of interest. The original version of this bill made failure of a supervising employee to report improper governmental conduct or conflicts of interest of a subordinate employee a Class 6 felony. The bill was amended due to opposition to reduce the level of crime to a Class 1 misdemeanor. These changes will be found in SDCL 3-6C

SB 63 established “whistleblower” protections for anyone who reports improper governmental conduct or conflicts of interest. These changes are found at SDCL 3-6C.

During the 2025 Legislative Session, the Office of Attorney General monitored approximately 106 bills to some degree. Of those bills, the Office of Attorney General supported 16² bills and opposed 2³.

² HB 1053 (require age verification by websites containing material that is harmful to minors, and to provide a penalty therefor); HB 1056 (prohibit the preparation, sale, and distribution of certain kratom products and to provide a penalty therefor); HB 1069 (regulate vapor products and to provide a penalty therefor); HB1080 (void covenants that prohibit or restrict the possession or use of firearms and ammunition); HB 1096 (prohibit eligibility for a suspended imposition of sentence for certain rape offenses); HB 1115 (establish the crime of aggravated criminal entry of a motor vehicle with the intent to steal a firearm or firearm silencer, to make offenders ineligible for presumptive probation, and to provide a penalty therefor); HB 1123 (repeal medical purpose as a defense in prosecutions involving cannabis); HB 1128 (revise certain provisions related to sexual contact with a child under sixteen); HB 1230 (revise a provision related to unauthorized distribution of fentanyl and provide a penalty therefor);

The following bills will become law on July 1, 2025, unless noted otherwise:

CRIMINAL/LAW ENFORCEMENT

SB 5 – Permits a sheriff to charge a fee for service of process, whether the service is completed or not. The bill provides the fees for service of process, fees for traveling expenses, and fees for advertising the sale of property.

SB 7 – Prohibits the adoption or implementation of certain policies or ordinances by a state entity or political subdivision related to immigration enforcement that limit or prohibit a state entity or political subdivision from prohibiting an individual from communicating or cooperating with a federal agency or official regarding verifying or reporting the immigration status of another individual. Further prohibits policies or ordinances that grant a noncitizen that is unlawfully present in the United States the right to lawful presence.

SB 8 – Establishes certain criminal offenses and penalties for negligent boat operators who cause serious bodily injury or death to another person, including an unborn child, while under the influence of alcohol, drugs, or substances.

SB 14 – Revises provisions related to agricultural production facilities and penalties. The bill provides penalties related to stolen property; definitions of terms associated with agricultural production facilities.

SB 35 – Modifies substances listed on the controlled substances schedule and declares an emergency. This is the Department of Health’s Annual Bill to update the controlled substance schedule. This bill contained an emergency clause and became effective upon the Governor’s Signature on February 18, 2025

SB 18 (require age verification by websites containing material that is harmful to minors, and to provide a penalty therefor); SB 64 (revise provisions related to the establishment of an initial parole date); SB 72 (revise the payor of autopsy costs in certain circumstances); SB 74 (require the publication and review of an explanation of the open meeting laws of this state); SB 116 (revise and repeal provisions related to street racing prohibitions and to provide a penalty therefor); SB 154 (prohibit pharmaceutical manufacturers from interfering in contracts between 340B entities and pharmacies and to provide a penalty therefor); SB 164 (prohibit the use of a deepfake to influence an election and to provide a penalty therefor).

³ SB 83 (revise the penalty and provide treatment for the ingestion of certain controlled substances); SB 119 (repeal capital punishment).

SB 38 – Modifies requirements for a vehicle approaching another vehicle that is stopped or occupying the shoulder of the highway with warning lights flashing. The bill clarifies what it means for a vehicle to “make use of” the shoulder.

SB 64 – Revises provisions related to the establishment of an initial parole date. This bill amends initial parole dates for certain violent crimes.

SB 71 – Revises provisions pertaining to the compulsory age for school attendance. The bill amends the age requirement for school attendance and further defines the requirements a child must meet to take a high school equivalency test. The bill also amends the attendance reporting process for school districts.

SB 72 – Revises the payor of autopsy costs in certain circumstances. The bill expands the circumstances under which the county may be reimbursed for autopsy costs involving certain violent crimes.

SB 83 – Revises the penalty and provides treatment for the ingestion of certain controlled substances. The revisions included dropping the violation for a substance in Schedules I, II, III, and IV from Class 5 and Class 6 felonies to a Class I misdemeanor for the first and second offenses. The bill further sets certain mandatory probation requirements that include treatment and specialty courts.

SB 100 – Limits imposing restrictions on concealed carry and other self-defense items while on a campus of public institution of higher education. The bill prevents the Board of Regents nor institutions under their control from establishing policies that regulate weapons on campuses.

SB 115 – Revises provisions related to sexual contact with a child under eighteen. Adds certain family members to those who may be charged with sexual contact pursuant to SDCL 22-22-7.8.

SB 116 – Revises and repeals provisions related to street racing prohibitions and provides a penalty. The bill defines terms related to street racing, lists penalties for anyone who participates, and defines who can authorize a public race competition.

SB 123 – Revises provisions related to forensic medical examinations. The bill expands what costs will be covered by the county as a part of a forensic medical examination.

SB 140 – Revises a provision related to the reimbursement of expenses incurred by a county in detaining a parolee. The bill creates an exception to the \$95 dollars per day reimbursement limit from the state to the counties if they incur costs for a parolee’s medication and medical care.

HB 1012 – Clarifies the status of the Statewide One-Call Notification Board as an agency administered by the Department of Public Safety and the duties of the board. The bill continues the operation of the Board, placing it within the Department of Public Safety as well as expanding the Board's authority.

HB 1053 – Requires age verification by websites containing material that is harmful to minors and creates a penalty.

HB 1056 – Prohibits the preparation, sale and distribution of kratom products and creates a penalty. The bill defines terms related to kratom and regulates its preparation, sale, and distribution.

HB 1061 – Prohibits health care providers from restricting or denying a parent of guardian's access to certain medical records and other health information of minor.

HB 1096 – Prohibits eligibility for using a suspended imposition of sentence for rape offenses prosecuted pursuant to SDCL 22-22-1(2) or (3).

HB 1218 – Addresses the imposition of firearm restrictions on certain employees, officers, volunteers, and other individuals. This bill prevents the governing body of a local unit of government from establishing policies that prevent an employee of the governmental unit from legally carrying a firearm on public grounds or in public buildings.

HB 1221 – Makes an appropriation for victim services by nonprofit organizations. The bill authorizes a \$5,000,000 appropriation to the Department of Public Safety to provide grants to nonprofits to assist in victim services. The bill also provides criteria the nonprofits must meet to be eligible.

HB 1222 – Expands carrying, possession and storage of a concealed pistol. This bill creates additional exceptions to prosecution for possession of a firearm or dangerous weapon at a school pursuant to SDCL 13-32-7.

HB 1230 – Revises a provision related to unauthorized distribution of fentanyl and creates a penalty. The bill creates Class 2 Felony and a mandatory 3-year sentence for offenses of 4 milligrams or more of fentanyl.

HB 1239 – Revises certain provisions related to the restriction of access to obscene materials in a public library or public-school library. The bill requires public schools and libraries to establish appeal processes for an individual to seek a determination of obscenity for certain material.

HB 1259 – Prohibits unauthorized access to certain multi-occupancy rooms. The bill requires public schools to designate certain spaces as for males or females depending on certain circumstances and defines males and females.

ELECTIONS

SB 12 – Limits the amount of money that may be loaned to a candidate or political committee to the amount that could be accepted as a political contribution and must be treated as a contribution.

SB 17 – Clarifies when a political committee must file certain campaign finance disclosure statements as well as the requirements surrounding termination reports.

SB 68 – Requires an individual be a citizen of the United States before being eligible to vote and creates a penalty. The bill clarifies that an individual must be a citizen of the United States in order to vote in any state election and amends certain penalties for individuals that knowingly impersonate a voter or knowingly allow a non-citizen to vote.

SB 73 – Requires that an individual registering as a voter when applying for a driver license be a resident of this state for the purposes of voting.

SB 75 – Requires an indication of United States citizenship status on a motor vehicle operator's license or permit, and on a nondriver identification card. The bill adds the requirement of indicating US citizenship on driver's licenses and identification cards.

SB 89 – Repeals the requirement that judicial officers be listed on a separate nonpolitical ballot. Removes the "nonpolitical ballot" language on voting ballots including judicial officers.

SB 91 – Revises the requirements for a petition to initiate a measure or constitutional amendment or to refer a law. This bill changes specific requirements related to initiated measure and constitutional amendment petitions.

SB 92 – Requires that the director of the Legislative Research Council and the secretary of state review an initiated measure and determine if the measure embraces more than one subject.

SB 106 – Requires an individual be registered as a voter of this state before being eligible to be a petition sponsor for a ballot measure.

SB 164 – Prohibits the use of a deepfake to influence an election and creates a penalty.

SB 185 – Amends provisions pertaining to the process by which the qualifications of a registered voter are verified. The bill creates a process for the secretary of state and county auditors to verify voter status and correct voter status.

HB 1066 – Revises residency requirements for the purposes of voter registration.

HB 1127 – Requires that notice of county’s canvas, post-election audit, and testing of automatic tabulating equipment be posted to the secretary of state’s website.

HB 1164 – Revises the process for nominating candidates for lieutenant governor. The bill removes the nomination of lieutenant governor from the party convention. Pursuant to this bill, the candidate for governor will nominate a candidate for lieutenant governor with the secretary of state.

HB 1184 – Amends the deadline for filing a petition to initiate a measure or constitutional amendment. The amendment moves the deadline from the first Tuesday in May to the first Tuesday in February.

HB 1208 – Designates an individual using the address of a mail forwarding service or post office box when applying to register as voter or vote by absentee as federal voter.

HB 1256 – Requires the inclusion of certain information on a candidate’s nominating petition or on a ballot question petition.

HB 1264 – Requires the disclosure of an outstanding loan balance on a campaign finance disclosure report.

CANNABIS

HB 1116 – Repeals a reporting requirement regarding industrial hemp. The bill repeals the Attorney General’s reporting requirements in collection and compiling of information related to industrial hemp.

PIPELINES

HB 1052 – Prohibits the exercise of eminent domain for a pipeline that carries carbon oxide. The bill prohibits the use of eminent domain to acquire a right-of-way for, construction of, or operation of a pipeline transferring carbon oxide.

MISCELLANEOUS

SB 10 – Shortens the time before records of a Governor or Lieutenant Governor are opened to the public. Changes the time from 10 years to 5 years after for records to be made public.

SB 74 – Requires the publication and review of an explanation of the open meeting laws of this state. This bill requires that officials who participate in public meetings review the open meetings requirements annually and that the Attorney General's Office publish an explanation of these rules annually.

SB 81 – Prohibits the use of a firearms code for transactions involving firearms, accessories, components, and ammunition and creates a civil penalty. The bill prohibits government entities, financial institutions, their employees and officers from keeping any record or require the use of firearms code that distinguishes firearm transactions.

SB 154 – Prohibits pharmaceutical manufacturers from interfering in contracts between 340B entities and pharmacies and creates a penalty. The bill prohibits pharmaceutical manufacturers from directly or indirectly interfering with the delivery of a 340B drug. The bill also provides for civil action against the pharmaceutical manufacturer for violating the act.

SB 176 – Clarifies the discovery procedures and powers to modify the administration of the Government Operations and Audit Committee. The bill clarifies what the committee can subpoena and what the committee may allow their members or an individual to do on behalf of the committee.

HB 1011 – Revises provisions related to the stenographic recording of certain proceedings. The bill allows magistrates to use electronic devices in proceedings at trial and limits the opportunities for parties to demand a court reporter.

HB 1051 – Updates provisions on the interim legislative oversight of administrative rulemaking. The bill allows for the Interim Rule Committee to select a chair and vice-chair, the role the code counsel, meeting structures, and the role of agencies during the rulemaking process.

HB 1059 – Clarifies the meaning of teleconference for the purposes of open meeting requirements. The bill defines teleconference as an exchange of information by any audio, video, or electronic medium, including the internet.

HB 1080 – Voids covenants that prohibits or restricts the possession of use of firearms and ammunition. A covenant running with the land is not able to restrict or have the effect of prohibiting or restricting of the lawful possession, storage, or transportation of firearm or ammunition. The covenant also may

not restrict or have the effect of prohibiting or restricting the lawful discharge of a firearm.

HB 1133 – Amends bond requirements. The bill removes the notary public's bond given to the state that was approved by the attorney general. The bill also updates language where the bond was required.

Please feel free to contact me if you need additional information. You can access all the bills introduced by the 2025 Legislature at the South Dakota Legislative Research Council website. The web address for the 2025 Session is at this location:

<https://sdlegislature.gov/>