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TO: Law Enforcement and Interested Persons

FROM: Grant M. Flynn, Assistant Attorney General

RE: **2026 Legislative Summary**

The 2026 South Dakota Legislature considered 571 pieces of legislation. The House introduced 326 bills, and the Senate introduced 245 bills. The Governor signed 240 bills into law. The Governor vetoed 2 pieces of legislation, and the Legislature sustained both of the Governor's vetoes.¹

ATTORNEY GENERAL SUPPORT AND OPPOSITION

During the 2026 Legislative Session, the Office of Attorney General monitored approximately 142 bills to some degree. Of those bills, our supported 19 bills and opposed 8. Of the 19 bills supported by the Office of Attorney General, 12 successfully completed the process.² None of the 8 bills opposed by the Office of Attorney General completed the process. Each bill supported and opposed by the Office of the Attorney General is listed below.

Support:

- HB 1007 (an act to amend the definition of law enforcement officer to include tribal law enforcement officers),
- HB 1031 (an act to revise and repeal provisions related to rape offenses and to increase the penalty therefor),
- HB 1062 (an act to revise a provision related to aggravated assault),

¹ See [HB 1077](#) (an act to consider a cultivated-protein food product to be adulterated food) and [HB 1138](#) (an act to require the licensure of non-medical home care agencies, and to provide a penalty therefor).

² 11 of the bills listed as "Support" were signed by the Governor. Once was a concurrent resolution passed by the House of Representatives.

- HB 1066 (an act to revise a provision related to theft by a contractor, subcontractor, or supplier),
- HB 1076 (an act to revise restrictions on residence within a community safety zone and to declare an emergency),
- HB 1083 (an act to revise certain provisions related to stalking, establish the crime of felony stalking of a public official, and provide a penalty therefor),
- HB 1084 (an act to amend provisions pertaining to the public availability of information contained in certain records),
- HB 1120 (an act to revise certain provisions related to operating a vehicle, boat, or aircraft while under the influence),
- HB 1126 (an act to revise a provision related to driving under the influence),
- HB 1151 (an act to ban kratom and kratom products and to provide a penalty therefor),
- HB 1187 (an act to add coaches to the list of mandatory reporters of child abuse or neglect),
- HB 1206 (an act to clarify the use of public funds for the purpose of alternative instruction),
- HB 1274 (an act to prohibit the dispensing, distribution, sale, or advertisement of certain articles or things for purposes of an unlawful abortion and provide a criminal and civil penalty therefor),
- HB 1275 (an act to create requirements for age verification and parental consent for application stores and to provide a penalty therefor),
- HB 1298 (an act to prohibit the electronic publication of certain information about a judicial officer or law enforcement officer and provide a penalty therefor),
- HCR 6001 (urging the United States Department of Homeland Security to establish a tribal law enforcement training academy in South Dakota),
- SB 2 (an act to provide that a firearm silencer is not a controlled weapon),
- SB 77 (an act to ban kratom and kratom products and to provide a penalty therefor),
- SB 98 (an act to prevent virtual currency kiosk fraud).

Oppose:

- HB 1166 (an act to require financial interest statements from members of certain state authorities, board, and commissions, and to provide a penalty therefor),
- HB 1176 (an act to clarify bond or pre-trial release upon sobriety program participation),
- HB 1192 (an act to allow the parole of certain inmates sentenced to life imprisonment without parole),

- HB 1214 (an act to require that courts consider as a mitigating factor during sentencing an individual’s history as a victim of abuse and provide for a reduced sentence in certain circumstances),
- HB 1217 (an act to limit the use of taxpayer funds and resources by a public education employer to support a labor organization or affiliate and to provide a penalty therefor),
- HB 1268 (an act to repeal capital punishment),
- HB 1309 (an act to restrict the processing of online personal data of individuals sixteen years of age or younger),
- SB 190 (an act to codify the rights of a parent).

ATTORNEY GENERAL BILLS

The Attorney General requested the introduction of ten pieces of legislation during the 2026 Legislative Session. The Legislature adopted each of the bills and the Governor signed all ten bills into law. Of the ten bills that were passed into law, five of them were amended during the process. The final versions are:

SB 17 (an act to prohibit a candidate or political committee from accepting contributions or loans made by a foreign national, to provide a penalty therefor, and to declare an emergency): This bill added to the list of unlawful campaign contributions those from a foreign national as defined by 52 U.S.C. § 30121(b). South Dakota law now mirrors the prohibition of foreign national campaign contributions found in federal law. This bill contained an emergency clause.

SB 41 (an act to revise a provision related to criminal invasions of privacy, prohibit the creation and distribution of digitally fabricated material of an identifiable individual, and provide penalties therefor): This bill added to SDCL § 22-21-4 a prohibition against the creation, disclosure, dissemination, distribution, or sale of “digitally fabricated material” depicting an “identifiable individual” in a state of nudity or a sexual act “with the intent to self-gratify or alarm, annoy, embarrass, harass, invade the privacy of, threaten, or cause emotional, financial, physical, psychological, or reputational harm...” to the identifiable individual. A violation under this section constitutes a Class 5 felony.

SB 42 (an act to enhance the penalties for ingestion, possession with intent to deliver, and delivery of a controlled substance in a state correctional facility): This bill increased the penalty for delivery of controlled substances to an inmate as well as restoring the Class 5 felony for ingestion of a controlled substance when committed by an inmate or someone under parole supervision.

SB 43 (an act to address search and seizure provisions applicable to digital currency): This bill added “digital currency” to the types of property that may be searched for or seized pursuant to a search warrant.

SB 44 (an act to establish investigative subpoena authority to gather business records in certain investigations): This bill authorized the DCI ICAC Unit to seek judicially approved “investigative subpoenas” from a Sixth Circuit Judge in Hughes County to obtain specifically delineated subscriber information associated with an IP address obtained via an ICAC Tip.

SB 45 (an act to revise a provision regulating delta-8 tetrahydrocannabinol, THC-O acetate, and hexahydrocannabinol for persons under the age of twenty-one and to provide a penalty therefor): This bill added delta-9 tetrahydrocannabinolic acid (Delta-9 THCA) to the list of products that cannot be sold to, purchased for, or purchased by someone under the age of 21. It also increases the penalty for the sale of these products to someone under the age of 21 to a Class 1 misdemeanor.

SB 46 (an act to modify the requirements for open meeting agendas and provide a penalty therefor): The first of three bills requested by the Attorney General’s 2025 Open Meetings Task Force. This bill requires that the agenda for an Open Meeting contain sufficient detail to reasonably inform the public of the entity’s business.

SB 47 (an act to revise the requirements for executive sessions and closed meetings): The second of three bills requested by the Attorney General’s 2025 Open Meetings Task Force. This bill clarified the information that must be provided to the public in support of a motion to enter executive session.

SB 48 (an act to clarify that an official open meeting agenda must be posted online at least seventy-two hours before the scheduled start of the meeting): The third of three bills requested by the Attorney General’s 2025 Open Meetings Task Force. This bill expanded the statutory requirement that agendas be public posted 72 hours prior to a meeting to also include online posting.

SB 49 (an act to safeguard the integrity, privacy, and security of genetic data and provide a civil penalty therefor): This bill added certain contract terms and express consent requirements that direct-to-consumer genetic testing companies must follow to prevent the unauthorized disclosure or sale of personal genetic data.

BILLS OF INTEREST

The following bills will become law on July 1, 2026, unless noted otherwise:

A. House Bills

HB 1003 (an act to amend provisions pertaining to the required criminal background investigation of certain school employees): Expanded background check requirements to anyone who is hired by an “accredited school.”

HB 1007 (amend the definition of law enforcement officer to include tribal law enforcement officers): Added tribal law enforcement officers into the statutory definition of law enforcement officer.

HB 1013 (an act to clarify the purposes permitted for certain offenders to operate a motor vehicle): Added the following to the list of appropriate destinations for a work permit: childcare delivery or pickup, health appointments, court, probation appointments, 24/7 sobriety testing, treatment, and aftercare.

HB 1016 (an act to modify provisions related to the controlled substances schedule and to declare an emergency): Amended the definitions of “controlled substance analogue”, “hashish”, and “marijuana” under SDCL § 34-20B-1. This bill contained an emergency clause.

HB 1049 (an act to protect electric infrastructure in this state): Prohibited foreign ownership of land near electrical facilities.

HB 1062 (revise a provision related to aggravated assault): Included a “simulated deadly weapon” within the deadly weapons that may be used in furtherance of an aggravated assault.

HB 1066 (an act to revise a provision related to theft by a contractor, subcontractor, or supplier): Clarified “theft by a contract” statute, SDCL § 44-9-13.

HB 1076 (an act to revise restrictions on residence within a community safety zone and to declare an emergency): Corrected grandfather clause related to community safety zones. This bill contained an emergency clause.

HB 1084 (an act to amend provisions pertaining to the public availability of information contained in certain records): Removed personally identifiable information of judges and law enforcement officers from the publicly available voter registration file.

HB 1092 (an act to update provisions pertaining to open records): Clarified what constitutes an “internal agency record” for purposes of open records requests.

HB 1099 (an act to reschedule the pharmaceutical composition of crystalline polymorph psilocybin in a drug product approved by the Food and Drug Administration as a Schedule IV controlled substance): Permits the use of certain type of psilocybin for medical purposes upon approval of the FDA.

HB 1108 (an act to require the sealing of court files upon dismissal or denial of a petition for a protection order): Requires that records of protection orders be sealed when a protection order is not granted.

HB 1126 (an act to revise a provision related to driving under the influence): Clarified the penalty for 5th offense DUIs.

HB 1140 (an act to permit a court to impose as a condition of probation, or parole in certain circumstances, treatment at a nonprofit entity awarded an alternative care program grant): Permits the use of nonprofit alternative care programs as conditions of probation.

HB 1162 (an act to add certain substances to Schedule I of the controlled substances schedule): Added phenibut and tianeptine to list of Schedule I controlled substances.

HB 1164 (an act to establish the crime of fraudulent assisted reproduction and provide a penalty and civil liability therefor): Established a Class 5 felony as well as civil penalties for use by a health care professional of reproductive material without the patient's consent.

HB 1169 (an act to classify medetomidine as a Schedule III controlled substance and establish permissible uses): Established regulations surrounding the use of medetomidine.

HB 1175 (an act to revise provisions related to Division of Criminal Investigation cooperation with Indian Tribes): Permitted all Indian tribes to request background checks from DCI for certain individuals.

HB 1183 (an act to revise qualifications for immunity from prosecution following a drug-related overdose): Expanded the protections from prosecution to someone who requests medical assistance for an overdose on another person's behalf.

HB 1187 (an act to add coaches to the list of mandatory reporters of child abuse or neglect): Added coaches to the list of mandatory reporters.

HB 1201 (an act to authorize the use of bingo games, lotteries, and pull-tab devices by booster clubs): Expanded the approved entities that may make use of bingo games, lotteries, and pull tabs.

HB 1220 (an act to regulate the sale of nicotine products, and to provide a penalty therefor): Created a regulated distributor scheme for nicotine products.

HB 1257 (an act to amend the definition of an abortion): Clarified procedures that do not constitute an abortion under state law.

HB 1274 (an act to prohibit the dispensing, distribution, sale, or advertisement of certain articles or things for purposes of an unlawful abortion and provide a criminal and civil penalty therefor): Clarified the criminal and civil regulations surrounding abortion pills and chemical abortions.

HB 1280 (an act to increase penalties for the operation of drones over certain facilities and to provide for mitigation techniques and countermeasures): Increased the penalty for use of a drone near a military facility and authorized law enforcement mitigation and countermeasures.

HB 1298 (an act to prohibit the electronic publication of certain information about a judicial officer or law enforcement officer and provide a penalty therefor): Prohibited the distribution or DOXXING of certain personal information of a judicial or law enforcement officer with the intent to place the officer or the officer's family in fear of death or great bodily harm.

B. Senate Bills

SB 2 (an act to provide that a firearm silencer is not a controlled weapon): Removed silencers from the list of controlled weapons.

SB 39 (an act to revise provisions relating to industrial hemp): Repealed large portions of South Dakota's industrial hemp program in reliance on existing federal regulations.

SB 81 (an act to clarify the prohibition on inquiring or harassing a service animal): Clarified what is required for an animal to qualify as a "service animal" pursuant to SDCL § 40-1-38.

SB 82 (an act to prohibit the misrepresentation of an animal as a service animal and to provide a penalty therefor): Established a Class 2 misdemeanor for intentionally misrepresenting an animal as a "service animal."

SB 87 (an act to clarify and establish requirements related to forensic medical examinations): Clarified the requirements medical institutions must satisfy to be authorized to perform forensic medical examinations.

SB 98 (an act to prevent virtual currency kiosk fraud): Established a regulatory system to combat fraud via virtual currency kiosks.

SB 107 (an act to add licensed and registered child care programs to the definition of community safety zone): Added certain child care programs to the definition of a "community safety zone" for purposes of the residence of a registered sex offender.

SB 113 (an act to increase the penalty for preventing practice of religion): Increased the penalty for preventing the practice of religion under SDCL § 22-19B-4 to a Class 6 felony.

SB 124 (an act to temporarily prohibit the manufacture, sale, and distribution of any product containing cell-cultured protein, and to provide a penalty therefor): Created a temporary criminal prohibition against the sale of “cell-cultured protein.”

SB 179 (an act to permit a court to commit a juvenile adjudicated delinquent for certain weapons offenses to the Department of Corrections): Authorized a court to commit a juvenile upon the adjudication of certain weapons offenses.

SB 221 (an act to regulate the retail sale of nicotine products, and to provide a penalty therefor): Created a retail licensing and enforcement scheme for certain nicotine products that includes criminal penalties.

Please feel free to contact me if you need additional information. You can access all the bills introduced by the 2026 Legislature at the South Dakota Legislative Research Council website. The web address for the 2026 Session is at this location:

<https://sdlegislature.gov/>