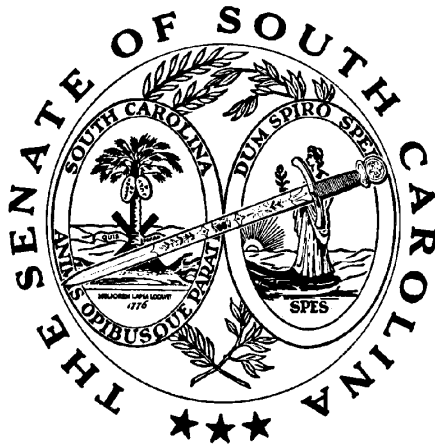


NO. 56

**JOURNAL**  
**OF THE**  
**SENATE**  
**OF THE**  
**STATE OF SOUTH CAROLINA**



REGULAR SESSION BEGINNING TUESDAY, JANUARY 10, 2023

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FRIDAY, APRIL 14, 2023

**Friday, April 14, 2023**  
**(Local Session)**

~~Indicates Matter Stricken~~

Indicates New Matter

The Senate assembled at 11:00 A.M., the hour to which it stood adjourned, and was called to order by the ACTING PRESIDENT, Senator SETZLER.

**ADDENDUM TO THE JOURNAL**

The following remarks by Senator CAMPSSEN were ordered printed in the Journal of March 29, 2023:

**Remarks by Senator CAMPSSEN**

Thank you, Mr. PRESIDENT. This is a Bill that addresses judicial merit selection reform. We have already introduced several Bills regarding this issue. I want to explain and distinguish this one very briefly. First, I will address constitutional requirements for the Judicial Merit Selection Commission (JMSC) found in Article 5, Section 27 of the South Carolina Constitution. The constitutional requirements are that the JMSC must consider the qualifications and fitness of all judicial candidates -- this Bill checks that box. The General Assembly must elect judges from among the nominees from the JMSC -- this Bill checks that box. And no person can be elected to a judgeship unless they are found qualified by the JMSC -- this Bill checks that box.

The reason I'm making this point is to emphasize there will be no need to amend the Constitution to implement the reforms in this Bill. So, what does the Bill do differently than the current process? It requires the JMSC to only consider the qualifications of candidates that are recommended by the Governor. It is a way for the Governor to nominate, and for the JMSC to evaluate their qualifications as part of the advice and consent process. The JMSC process would remain in place, but the Governor would nominate the judges.

This is important for several reasons. I am aware of many lawyers who have had a very successful career that would be willing to be a judge and would undoubtedly serve admirably because they have been outstanding lawyers. They would be willing to serve as a matter of public service to cap off their career -- to give something back to the profession they love. But they don't even apply. Why? Because they are not going to post up at the ramp from the parking garage to the State House for a month in an effort to explain to a twenty-five year old freshman House member in

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twenty seconds or less why they would be a good judge, and subsequently request their vote. We lose a lot of good candidates because of that dynamic.

We also lose good candidates because their law practice prohibits them from spending that month at the ramp. They can't afford to camp out at the State House if they are, for example, a business transaction lawyer, real estate lawyer, probate lawyer or defense attorney. They can't afford the time away from their practice because they bill by the hour, as opposed to earning contingency fees like plaintiff's attorneys do. So, we largely eliminate an entire category of lawyers from judgeships on the basis of their fee structure. I suggest this aspect of my proposed reform may be the most significant.

The proposal also gives the Executive Branch a role to play. In almost every other state where judges aren't elected by popular vote, which is the worst way to elect judges, they are nominated by the Governor and confirmed through the advice and consent process by the Legislative Branch -- typically the Senate.

In conclusion, the reform I am proposing will produce the following outcome. The Governor would nominate judicial candidates, and the JMSC becomes a robust part of the advice and consent process, and they are approved or disapproved by vote of the General Assembly. However, because there is only one candidate offered, they're not competing against other candidates and they are not campaigning. We can focus on evaluating their credentials and their qualifications, and the JMSC would in turn become the best advice and consent process in the Nation. We would also be honoring the separation of powers doctrine by including both the Legislative and Executive Branches of government in the selection of the Judicial Branch. James Madison would be proud!

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#### **ADDENDUM TO THE JOURNAL**

The following remarks by Senator DAVIS were ordered printed in the Journal of March 23, 2023:

#### **Remarks by Senator DAVIS**

Thank you, Mr. PRESIDENT. Thank you, members. It's the first time this session I've risen on a Point of Personal Interest. This is going to be the first time this session that you've heard me talk about the Compassionate Care Act. The empowerment of doctors on a very limited circumstance to authorize patient use of cannabis -- subject to continual

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physician oversight, subject to being dispensed by pharmacists, limited to conditions, for only which there is empirical evidence that there is medicinal benefit that cannabis can provide to a patient who is suffering. I am going to speak about it today because we are approaching the crossover deadline. I had honestly thought, based on my discussion with my colleagues in this Senate, that we were going to get this Bill over to the House this year -- where it was last year -- after passing twenty-eight to sixteen and then being ruled on the last day or week of session as being out of order because it had a revenue raising component to it -- because it had a sales tax imposed to help cover the cost of the program -- first time ever they have ever done that. The Clerk, Ken Moffitt, Sara Parrish, and everybody had reviewed the Bill with me and said this is not a revenue raising Bill. This raises revenue ancillary to a primary purpose of the Bill that is other than revenue raising. Don't worry about it! But it got ruled out of order. It got punked by the House over there and got our wings clipped. Back then, everyone was so angry, that we were going to try to take it up and put it on another Bill, but it got ruled out of order of not being germane. So that couldn't happen. That's okay. We're going to have it this year.

I'm going to give you the state of where we are right now with this Bill. The federal government has given, if possible, even more of a green light regarding letting states do this. The IRS has issued regs. Congress every year puts in the budget saying -- medical marijuana states are not to be challenged. The Treasury Department has issued regs to banks allowing them to take proceeds from medical cannabis sales. The Attorney General has told the U.S. attorneys to stand down and not enforce federal laws against any state that has authorized medical use of cannabis. The federal courts consistently, time and time again, have said this is an appropriate space for states to act. Yet, we still have those that say the supremacy clause and the oath they take to the U.S. Constitution prevents them from voting for this Bill. That is ridiculous, wrong and false.

The second thing I will say is this -- in addition to all those green lights that the federal government is now giving us, other states are now adopting this. North Carolina is about to become the 39<sup>th</sup> state -- their Senate passed it. Our Bill, this Bill, we debated for three weeks last year after eight years' worth of subcommittee testimony -- is more restrictive. What do I mean by that? It's restrictive, Senator HUTTO, regarding the conditions that can be treated by it. It's not wide open. It is very narrowly circumscribed where there is empirical data saying there is a medical

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relationship between taking it and a benefit. It's not anecdotal. It doesn't allow smoking. It requires a doctor on the front end to have an incredible amount of due diligence to say they have explored every other alternative before they have authorized cannabis for one of these limited purposes. We worked on the floor to have pharmacists involved in the process. We are one of the few states that has pharmacists involved. So, we have medical professionals at the front end and the back end.

This is the most conservative Bill and yet, we can't take it up for debate. Some of the reasons that I have heard recently as to why we can't take it up for debate is that this work product, Senator VERDIN, is not worthy of this Senate because it has not been vetted -- eight years of hearings! Over a dozen subcommittee hearings of testimony, three weeks of Senate debate with amendments adopted and this Bill isn't ready for this Senate to debate? Because it hasn't been vetted -- that is embarrassing. I'm sorry I didn't stand up for you, Chairman of Medical Affairs, when you were criticized for polling it out of committee. A Bill we have already approved out of committee and subjected you to the criticism from some of our colleagues that you did this Senate a disservice by sending up a work product that wasn't worthy of the Senate. Okay? There are people suffering! I sent to you -- a lot of you -- a text from someone you all know and love about what she is going through right now with her mother who is dying of pancreatic cancer -- who was in so much pain from chemotherapy, she had to be taken to the emergency room last night. She had to be put on opioids which knocked her out completely. When we know that cannabis can be a therapeutic substitute for that and increases the quality of life. This is embarrassing that we can't do this! It's embarrassing to me! It really is.

Now, I can go through all the aspects of this Bill that make it conservative, but I think after three weeks' worth of debate, robust debate, debate in which I took up every reasonable amendment that was offered and incorporated -- I don't need to repeat that to you all. You know throughout this process there is a physician on the front end, a pharmacist on the back end, and there are regulations all throughout. You can't smoke it. You can't have it in certain forms. You can't appeal to children. You must have independent labs. Every single state law that has passed this -- I have borrowed from the best provisions to make this a Bill we can be proud of. A Bill that, I would say, is beyond precedent for having been vetted and yet we have people in this Chamber that say it hasn't been vetted! That is a lie! It's a lie and it's not compassionate! It's wrong! I've got to listen to phone calls from people asking me what

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the hell has happened! I waited my turn. I haven't talked about this. We took up CON repel. We took up school choice. We took up China and now we are going to take up Preemption. We took up other things. I waited my turn because it was understood that we were going to take this up because it passed twenty-eight to sixteen last year. A majority of the Republican Caucus passed it last year and the House clipped our wings on it and embarrassed our staff. I had to come back here, Senator HUTTO, and explain to Sarah Parrish and Ken Moffitt about how the advice they gave this Chamber had been overruled by Tommy Pope who was presiding over in the House. Okay? They were embarrassed. They gave good advice and this Senate -- if you recall, this Senate was ready to take action and try to put it on another Bill. We were going to do it until somebody objected to it for not being germane -- which the PRESIDENT gave the right ruling -- no complaint about that.

So, I apologize to the Chairman of Medical Affairs for the criticism that you got on this. I really am. I should have stood up for you. The reason it didn't get taken up in material part is because misrepresentations were being made to members regarding what the House would do with this Bill if it got sent over there. Information was relayed to members in the Senate that it doesn't matter if we take it up this year. The House isn't going to take it up so why do the heavy lifting? The House IS going to take it up! I've been working with Speaker Smith for the last year on getting this taken up. If any of those Senators wanted that as a reason, not to set this up for Special Order, they could have come to me and looked me in the face and said this is what we are hearing and I would have set things straight. Senator HUTTO, they didn't bother to do that. They embarrassed me on the floor of this Senate when the Majority Leader stood up during the Motion Period and made a motion for Special Order. The opponents of this Bill screamed, "No", so it got to a roll call. Then when it went to roll call seven or eight individuals, who I had worked with last year, adopted their amendments last year, answered their questions last year -- they voted for this Bill last year, they went ahead and flipped and voted it down.

In the fifteen years I have been in this Senate, I have never experienced that, never -- never have! And it is not something I would ever do to another member. I would never do that! In fact, what I do is on subcommittees that I chair and I'm the floor leader, even if I don't like that Bill, I take it on as something I'm going to get passed. I'm going to get it passed, even if I had reservations. Genetic counseling -- I've got reservations regarding whether it needs to be licensed. But I respect the

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will of my colleagues. It's in my subcommittee and I'm going to come to this well and get this thing passed because that is what an honorable member does. I have not been treated honorably. The people of South Carolina have not been treated honorably. We are behaving in a way that is driven by fear, misimpressions and misinformation. We're going to be the 50<sup>th</sup> state to authorize this and in the meantime, we have people who are taking opioids for things they could have relieved by using medical cannabis. We have individuals with neurological disorders, people with Crohn's Disease, people with real maladies for which there is empirical peer review science saying this can help and we are telling doctors, "No!" I don't have an answer for all the people calling me saying, "Why couldn't you get this done?" I failed -- I failed!

You know what? I am tempted to just take my name off the Bill and let somebody else be the primary sponsor. Maybe somebody else can get it done when I can't -- obviously after nine years. You know what the definition of insanity is? It's doing the same thing over and over again with the same result. Maybe I'm not the person to lead this thing and someone else needs to lead this. I'm happy to yield because it is far more important that this get done and doctors be allowed to do what doctors think is in the patients' best interests than me getting any credit for it. We had this debate regarding COVID and regarding Ivermectin, and in things doctors felt were in the patients' best interest. A lot of people rose and said, "Who are we to second guess these doctors?" If these doctors think this is in the patient's best interest, politicians do not belong there. When it served their political interest to say that they did or when it is in something like this, they don't. That is just wrong! Now I realize that this Bill is probably dead for another year. Thank y'all, thank y'all -- probably dead for another year. I weighed whether to say anything about it, just play an inside game, build up capital, and help people with Bills, be a good faith broker or subcommittee chairmanship -- do the job. That is not working for me anymore. It is not working anymore so I'm going to try a different approach.

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#### **ADJOURNMENT**

At 11:05 A.M., on motion of Senator SCOTT, the Senate adjourned to meet next Tuesday, 18, 2023, at 12:00 P.M.

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