



2010

masw

legislative update



April 9, 2010

Omnes relinquitte spes, o vos intrantes

Budget Axe Dooms Those Most in Need

The late, great [Hubert Humphrey](#) often said, “The moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy and the handicapped.”

Our state government in Missouri has never done particularly well on the moral test Humphrey so eloquently proposed, but in this current budget crisis, failure is both unprecedented and tragic.

Yesterday (4/8) the [Senate Appropriations Committee](#) completed its work on the Fiscal 2011 Budget by [cutting half a billion dollars](#) from the already woefully inadequate proposal submitted just three and half months ago by Gov. Jay Nixon.

The budget axe fell especially hard on those Humphrey said we should most especially help: those in the dawn of life, the twilight of life, and in the shadows of life.

Acting in our name – remember, we are collectively the people who elected this legislature – lawmakers voted to deny needed medical services, mental health services, education, housing and other basic needs to our fellow Missourians who are most in need.

Our state elected officials continue to choose cutting services to people who need them most over the obvious, and more just, alternative: submitting to the voters a tax increase on people like [Rex Sinquefield](#) and [yours truly](#). I am by no means in the billionaires club with Rex, but I am fortunate to have a good job with better than average pay.

You can contact your legislators and ask them to support [HB 2034](#), which is the tax plan I am talking about, as an alternative to making this deep cuts to services that people truly need. – BQ

As Missouri’s voice for social justice, MASW has a very different agenda than the current culture in the state legislature.

MASW sees the state budget as a moral document, which starkly delineates our state’s priorities.

Of the \$500 million cut from Nixon’s 2011 budget by the Senate committee this week, more than \$100 million comes from education.

They also made a 10% reduction in aid to support outpatient psychiatric treatment, drug counseling, and crisis services for families with developmentally disabled children. The 21 Centers for Independent Living would have \$682,000 cut from their \$3.2 million budget.

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Action on Payday Loan Reform

Via an unusual parliamentary maneuver, House members who support reform of Missouri's virtually unregulated Payday Loan industry [filed a discharge petition](#) this week to remove [HB 2116](#) from committee and place it on the House Calendar.

After the [House Financial Institutions Committee](#) had the special presentation from the Payday Loan lobbyists we reported on in [last week's Legislative Update](#), supporters of [Rep. Mary Still's](#) reform bill decided to use [Article III, Section 22](#) of the Missouri Constitution, which reads, in part:

"Every bill shall be referred to a committee of the house in which it is pending. After it has been referred to a committee, one-third of the elected members of the respective houses shall have power to relieve a committee of further consideration of a bill and place it on the calendar for consideration."

According to press accounts, 60 House members signed the petition, which is more than the one-third required. However, [House Floor Leader Steve Tilley](#) decides when, or if, HB 2116 will be taken up for debate; Steven.Tilley@house.mo.gov or (573) 751-1488.

[Rep. Michael Cunningham](#), chair of the committee that had the special pro-payday loan industry presentation did not care for the press coverage of that meeting by Terry Ganey of the *Columbia Daily Tribune*. For decades, Ganey has been one of the most distinguished journalists covering the State Capitol, previously for the St. Louis *Post-Dispatch* and in recent years the Columbia paper.

Of Ganey, Cunningham said, "I just have no use for you. I hate irresponsible reporting like National Enquirer-type crap."

Interposition & Nullification

Using the same language as previous generations of politicians who were defending the "right" of state governments to allow slavery, segregated schools, and voting laws that disenfranchised minorities, leaders in the Missouri House [adopted](#) the latest version of interposition and nullification.

It is not without note that this action came in the same week as the [145th anniversary](#) of [Lee's surrender to Grant at Appomattox](#), which ended the Civil War. Too many have forgotten that, in that conflict, Americans took up arms against their own nation in the name of the right of states to allow and protect the institution of legal slavery.

One might have thought that war forever settled the question of state's rights versus the rights of citizens of the United States of America. In fact, as citizens we have the protection of our nation against human rights abuses of local and state governments.

In his iconic [August 1963 address](#) at the Lincoln Memorial, Martin Luther King, Jr. called out the Governor of Alabama, who stood in the schoolhouse door in a last ditch effort to prevent racial integration.

"Down in Alabama, with its governor's lips dripping with the words of interposition and nullification," King said.

Yes, the doctrine of interposition and nullification, an extremist misinterpretation of the 10th Amendment to the U.S. Constitution, has been used by bigots throughout our history to defend Jim Crow laws and to deny representation in state legislatures to racial minorities and recent immigrants.

The Missouri House of Representatives joined this proud tradition this week by adopting [HJR 88](#). If there is any good news...

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A Better Way to Fund Our Advocate in Utility Rate Cases

MASW's work with coalition partners to hold the line on utility rate increases continued to produce positive results this week, as a bill to provide for just and reliable funding for the ratepayers' advocate was heard in the [House Energy & Environment Committee](#).

The [Office of Public Counsel](#) (OPC) was created in the 1970's. This state agency represents residential customers of regulated utilities in rate cases and other matters before the [Public Service Commission](#) (PSC). The PSC ultimately sets utility rates.

OPC receives all its funds from state general revenue. As state budgets have been tight for many years, the OPC staff has been reduced – almost cut in half – while the number of rate increase cases filed by utilities has increased.

[Rep. Charles Schlottach](#) is sponsoring [HB 2408](#), which would provide funding for OPC from a special assessment we would pay through our utility bills. Their budget is just over \$1 million a year, and there are some three million utility bills issued every month in Missouri, so the cost is literally a penny or two on each of your monthly utility bills.

And this would free a million dollars of general revenue for mental health or other vital state service, desperately needed today.

Because of our coalition work on utility rates, MASW, AARP-Missouri and the Consumer Council of Missouri were joined in testifying for HB 2408 by Anheuser-Busch, Boeing, the Missouri Retailers Association, and the organization of large industrial ratepayers.

You can [contact members of the committee](#) to seek a "yes" vote on HB 2408.

Son of TABOR Heard in Senate Ways & Means Committee

[House Budget Chair Allen Icet](#), who sees in more detail than most legislators the depths of the cuts made to state services because of our current unprecedented decline in revenue, presented [HJR 87](#) to the [Senate Ways & Means Committee](#) this week.

HJR 87 would prevent the state from spending additional revenue if there is growth in tax collections due to an improved economy.

To use a food metaphor, state revenue is starving to death, and he is recommending having its stomach stapled.

HJR 87 is the latest version of TABOR. Like so much that comes out of Jefferson City these days, it is the product of national right-wing organizations, aimed at enriching the rich and destroying the power of our government to protect the rest of us.

Colorado is the only state to have enacted TABOR and, after only a year or two of its horrifying impact on state services, was suspended by the voters there.

Wayne Lee, longtime advocate in the State Capitol for those with disabilities, presented a letter from the former Colorado legislator who sponsored TABOR there, and now regrets its enactment and warns other states that are considering versions of it.

MASW was pleased to testify against the bill, along with the Missouri Budget Project, Missouri AFL-CIO, AARP-Missouri, and many others.

You can [contact members of the committee](#) to seek a "no" vote on HJR 87.

[Join MASW – or renew your membership.](#)

Interposition & Nullification

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If there is any good news, it is that this homage to the wrong side of American history passed by a vote that was far from unanimous.

As with most measures, there were two roll call votes. There were more absences on the second vote, so we'll use the first one to report.

Those who voted **in favor** of HJR 88, which is based on the discredited theory that the rights of state governments supersede the rights of citizens of the United States of America, were:

Representatives Sue Allen, Nita Jane Ayres, Walt Bivins, Ellen Broman, Jason Brown, Dan Brown, Mark Bruns, Eric Burlison, Wayne Cooper, Stanley Cox, Mike Cunningham, Cynthia Davis, David Day, Bill Deeken, Charlie Denison, Mike Dethrow, Scott Dieckhaus, John Diehl, Bob Dixon, Tony Dugger, Gary Dusenberg, Ed Emery, Doug Ervin, Sally Faith, Barney Fisher, Thomas Flanigan, Tim Flook, Ward Franz, Doug Funderburk, Chuck Gatschenberger, Jeff Grisamore, Casey Guernsey, Jim Guest, Belinda Harris, Steve Hobbs, Denny Hoskins, Allen Icet, Tim Jones, Kenny Jones, Shelley White Keeney, Gayle Kinery, Andrew Koenig, Will Kraus, Mike Lair, Scott Largent, Mike Leara, Scott Lipke, Tom Loehner, Mike McGhee, Cole McNary, Chris Molendorp, Brian Munzlinger, Bob Nance, Brian Nieves, Jerry Nolte, Mark Parkinson, Michael Parson, Darrell Pollock, Bryan Pratt, Jeanie Riddle, Marilyn Ruestman, Don Ruzicka, Therese Sander, David Sater, Rob Schaaf, Rodney Schad, Dwight Scharnhorst, Charlie Schlottach, Shane Schoeller, Tom Self, Tom Shively, Ryan Silvey, Joe Smith, Jason Smith, Bryan Stevenson, Rick Stream, Mike Sutherland,

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[YES votes,](#)

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Terry Swinger, Mike Thomson, Steven Tilley, Clint Tracy, Jim Viebrock, Maynard Wallace, Jay Wasson, Don Wells, Ray Weter, Larry Wilson, Kevin Wilson, Billy Pat Wright, and Anne Zerr.

Speaker Ron Richard missed the first vote, but voted YES on the second vote.

Those who voted **against** HJR 88, to uphold that we are not a nation of states, but a nation of "we, the people," were:

Representatives Bert Atkins, Joe Aull, Kenny Biermann, Rachel Bringer, Michael Brown, John Burnett, Don Calloway, Chris Carter, Ron Casey, Maria Chappelle-Nadal, Mike Colona, Pat Conway, Mike Corcoran, Kiki Curls, Curt Dougherty, Vicki Englund, Joseph Fallert, Linda Fischer, Mike Frame, Jason Grill, Steve Hodges, Jason Holsman, Ted Hoskins, Leonard Hughes, Jacob Hummel, Tishaura Jones, Jason Kander, Chris Kelly, Jeanne Kirkton, Sam Komo, Michele Kratky, J. C. Kuessner, Sara Lampe, Paul LeVota, Al Liese, Beth Low, Rebecca McClanahan, Tom McDonald, Margo McNeil, Tim Meadows, Kate Meiners, James Morris, Jamilah Nasheed, Stacey Newman, Charlie Norr, Jeanette Mott Oxford, Sharon Pace, Paul Quinn, Jeff Roorda, Martin Rucker, Ray Salva, Luke Scavuzzo, Ed Schieffer, Sue Schoemehl, Jill Schupp, Trent Skaggs, Michael Spreng, Mary Still, Rachel Storch, Mike Talboy, Tom Todd, Gina Walsh, Rochelle Walton Gray, Steve Webb, Stephen Webber, Hope Whitehead, Terry Witte, Pat Yaeger, and Jake Zimmerman.

Rep's Roman LeBlanc and Michael Vogt were absent for both votes.

You can [contact your Representative](#) and make your thoughts known.

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Interposition & Nullification

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If adopted by voters, HJR 88 would write into our state constitution these words:

“The state of Missouri shall:

(1) Uphold and defend the Constitution of the United States of America by hereby prohibiting the Missouri legislative, executive, and judicial branches of government from recognizing, enforcing, or acting in furtherance of any federal law, executive order, judicial ruling, administrative ruling, collection of revenue, dispersal of revenue, or other action by the legislative, executive, or judicial branches of the federal government that exceeds the limited powers enumerated and delegated to the federal government;

(2) Not recognize, enforce, or act in furtherance of the following:

(a) Federal actions restricting the right of private citizens to bear arms;

(b) Federal actions legalizing or funding abortions, or the destruction of any embryo containing human DNA from the zygote stage onward through all stages of development;

(c) Any federal action requiring the sale or trade of carbon credits or imposing a tax, fee, fine, or penalty on the release of carbon emissions;

(d) Federal actions involving a public option for health care, mandating end of life counseling, rationing health care, dictating or limiting the type of treatment a doctor may provide to his or her patient, authorizing or mandating the collection of a patient's medical record into a database, covering illegal aliens under health insurance or prohibiting enforcement of laws regarding coverage for illegal aliens, mandating the benefits health insurance must cover, requiring insurance providers to cover abortion services, restricting the ability of patients to purchase health insurance in another state, or assessing fees, fines, or penalties on employers who

do not provide health insurance to their employees;

(e) Any federal action mandating the recognition of same sex marriage, civil unions, or any relationship other than the marriage of one man and one woman;

(f) Any federal action increasing the punishment for a crime based on the thoughts of the perpetrator or the designation of the crime as a "hate crime";

(g) Any federal action regarding the establishment clause based upon a "wall of separation" between church and state. As Supreme Court Justice William Rehnquist wrote in *Wallace v. Jafree*, 472 U.S. 38, 99: "It is impossible to build sound constitutional doctrine upon a mistaken understanding of Constitutional history. . . . The establishment clause has been expressly freighted with Jefferson's misleading metaphor for nearly forty years. . . . There is simply no historical foundation for the proposition that the framers intended to build a wall of separation [between church and state]. . . . The recent court decisions are in no way based on either the language or intent of the framers.";

(h) Any federal action restricting the right of parents or guardians to home school, enroll their children in a private or parochial school, or placing restrictions on curriculum;

(3) Interpret the Constitution of the United States of America based on its language and the intent of the signers of the Constitution at the time of its passage. The several amendments shall be interpreted by their language and the intent of the congressional sponsor and co-sponsors of the amendment. Any interpretation of the Constitution based on an emerging awareness, penumbras or shadows of the Constitution, a theory of the Constitution being a "living, breathing document", or any interpretation that expands federal authority beyond the limited powers enumerated and delegated to the federal government, without an amendment to the Constitution, shall be deemed to exceed the limited powers enumerated and delegated to the federal government;"