

House Resolution Number

ARTICLES OF IMPEACHMENT

1 WHEREAS, on November 14, 2013, Governor Jeremiah W. (Jay)
2 Nixon issued Executive Order 13-14 which orders the Missouri
3 Department of Revenue to require all taxpayers who file a joint
4 federal income tax return to file a combined state income tax
5 return, including same-sex couples married in a state that
6 authorizes such marriages who file a joint federal income tax
7 return; and

8 WHEREAS, on August 3, 2004, the people of this state
9 overwhelming adopted Article I, Section 33 of the Missouri
10 Constitution:

11 "Section 33. That to be valid and recognized in
12 this state, a marriage shall exist only between a man
13 and a woman."; and

14 WHEREAS, Section 143.031, RSMo, authorizes only a "husband
15 and wife" to file a Missouri state combined income tax return:

16 "143.031. 1. A husband and wife who file a joint
17 federal income tax return shall file a combined return.
18 A husband and wife who do not file a joint federal
19 income tax return shall not file a combined return.";
20 and

21 WHEREAS, Section 143.091, RSMo, sets forth the requirements
22 for the meaning of terms used in Missouri's income tax statutes:

23 "143.091. Any term used in sections 143.011 to
24 143.996 shall have the same meaning as when used in a
25 comparable context in the laws of the United States
26 relating to federal income taxes, unless a different
27 meaning is clearly required by the provisions of
28 sections 143.011 to 143.996. Any reference in sections
29 143.011 to 143.996 to the laws of the United States
30 shall mean the provisions of the Internal Revenue Code
31 of 1986, and amendments thereto, and other provisions
32 of the laws of the United States relating to federal
33 income taxes, as the same may be or become effective,
34 at any time or from time to time, for the taxable
35 year."; and

1 WHEREAS, Governor Nixon, in citing only a portion of the
2 language in Section 143.091, RSMo, in Executive Order 13-14,
3 knowingly omitted a key phrase in that statutory language
4 conditioning the use of the federal meaning of terms on whether
5 "a different meaning is clearly required by the provisions of
6 sections 143.011 to 143.996"; and

7 WHEREAS, with a blatant and complete disregard for the will
8 of the people of this state expressed in the adoption of Article
9 I, Section 33 of the Missouri Constitution and predicated on a
10 knowing omission of key statutory language, Governor Nixon
11 concluded in Executive Order 13-14 that "the Department of
12 Revenue, under Section 143.091, RSMo, must apply the same meaning
13 to the phrase 'husband and wife' as is applied under federal law
14 pursuant to Revenue Ruling 2013-17"; and

15 WHEREAS, the statutory laws of the State of Missouri are
16 clearly subject to the provisions of the Missouri Constitution
17 and therefore must be interpreted in a manner consistent with and
18 not in contradiction to the provisions of the Missouri
19 Constitution; and

20 WHEREAS, to the extent that a statutory provision cannot be
21 interpreted in a manner consistent with and not in contradiction
22 to the Missouri Constitution, such statutory provision is
23 constitutional unenforceable; and

24 WHEREAS, requiring the filing of a combined state income tax
25 return by same-sex couples, which results in a recognition of
26 same-sex marriage by the State of Missouri, is not consistent
27 with and is completely contrary to Article I, Section 33 of the
28 Missouri Constitution; and

29 WHEREAS, in knowingly omitting a key phrase of statutory
30 language in Executive Order 13-14 and in knowingly failing to
31 acknowledge the will of the people as expressed in Article I,
32 Section 33, Governor Nixon misstates and misrepresents the
33 meaning and requirements under Missouri's constitutional and
34 statutory law, and thereby misleads the citizens of this state by
35 asserting that Missouri must allow the filing of a state combined
36 income tax return by same-sex couples; and

37 WHEREAS, Executive Order 13-14, which orders the Department
38 of Revenue to require same-sex couples legally married in a state
39 that authorizes such marriages to file a combined Missouri state
40 income tax return based on only a portion of the language in
41 Section 143.091, RSMo, and which omits the language of the
42 statute which prohibits such an order, is a direct violation of

1 Article I, Section 33 of the Missouri Constitution which
2 prohibits the State of Missouri from recognizing any marriage not
3 between a man and a woman; and

4 WHEREAS, Article IV, Section 2 of the Missouri Constitution
5 states:

6 "The governor shall take care that the laws are
7 distributed and faithfully executed, and shall be a
8 conservator of the peace throughout the state."; and

9 WHEREAS, Governor Nixon in issuing Executive Order 13-14
10 breached his constitutional duty under Article IV, Section 2 of
11 the Missouri Constitution to "take care that the laws are
12 distributed and faithfully executed"; and

13 WHEREAS, Article VII, Section 1 of the Missouri Constitution
14 states:

15 "All elective executive officials of the state, and
16 judges of the supreme court, courts of appeals and
17 circuit courts shall be liable to impeachment for
18 crimes, misconduct, habitual drunkenness, willful
19 neglect of duty, corruption in office, incompetency, or
20 any offense involving moral turpitude or oppression in
21 office."; and

22 WHEREAS, Governor Nixon's breach of his constitutional
23 duties to distribute and faithfully execute the laws of this
24 state by issuing an Executive Order in direct contradiction and
25 violation of Article I, Section 33 is grounds for impeachment;
26 and

27 WHEREAS, Article VII, Section 2 of the Missouri Constitution
28 vests the sole power of impeachment in the House of
29 Representatives:

30 NOW THEREFORE BE IT RESOLVED that the Missouri House of
31 Representatives, Ninety-seventh General Assembly, finds, charges,
32 and presents that Governor Jeremiah W. (Jay) Nixon, while so
33 acting as the Governor of the State of Missouri, issued Executive
34 Order 13-14 in contradiction and violation of Article I, Section
35 33 of the Missouri Constitution, constituting an act which is an
36 impeachable act under Article VII, Section 1 of the Missouri
37 Constitution, and that by doing such aforesaid act Jeremiah W.
38 (Jay) Nixon was and is guilty of the commission of willful
39 neglect of duty and misconduct in office; and

1 BE IT FURTHER RESOLVED that the Missouri House of
2 Representatives adopts the following:

3 ARTICLES OF IMPEACHMENT

4 ARTICLE I

5 That the Missouri House of Representatives under the
6 authority of Article VII, Section 2 of the Missouri Constitution
7 does find, charge, and present that Governor Jeremiah W. (Jay)
8 Nixon, while so acting as the Governor of the State of Missouri,
9 contrary to the standards of conduct prescribed for an elected
10 executive official of the state, committed an act impeachable
11 under Article VII, Section 1 of the Missouri Constitution, in
12 that, on November 14, 2013, Governor Jeremiah W. (Jay) Nixon
13 issued Executive Order 13-14 which requires the filing of a
14 combined state income tax return for "married individuals,
15 including same-sex couples legally married in a state that
16 authorizes such marriages, who file a joint federal income tax
17 return" in direct contradiction and in violation of Article I,
18 Section 33 of the Missouri Constitution which prohibits the
19 validity and recognition of a marriage not between a man and a
20 woman.

21 That by the doing of the aforesaid act, Jeremiah W. (Jay)
22 Nixon was and is guilty of willful neglect of duty and misconduct
23 in office, an impeachable offense under Article VII, Section 1 of
24 the Missouri Constitution, and that such act has shaken the faith
25 and confidence of the citizens of the State of Missouri in their
26 ability to have faith in their elected public officials, and has
27 breached the public trust that the laws of this state will be
28 faithfully executed.

29 ARTICLE II

30 That the Missouri House of Representatives under the
31 authority of Article VII, Section 2 of the Missouri Constitution
32 does find, charge, and present that Governor Jeremiah W. (Jay)
33 Nixon, while so acting as the Governor of the State of Missouri,
34 contrary to the standards of conduct prescribed for an elected
35 executive official of the state, committed an act impeachable
36 under Article VII, Section 1 of the Missouri Constitution, in
37 that, on November 14, 2013, Governor Jeremiah (Jay) Nixon issued
38 Executive Order 13-14 which cited language in Section 143.091,
39 RSMo, but knowingly failed to cite the complete text of said
40 section. Such knowing omission of statutory language
41 misrepresented the basis which Governor Jeremiah W. (Jay) Nixon
42 cited as necessitating the issuance of Executive Order 13-14.
43 The omitted statutory language of "unless a different meaning is

1 clearly required..." conditioned the requirement cited as the
2 basis for Executive Order 13-14, and thereby such knowing
3 omission failed to address the constitutional impediment which
4 arose as a result of such conditional statutory language. By
5 knowingly failing to cite the complete text of Section 143.091,
6 RSMo, Governor Jeremiah W. (Jay) Nixon did knowingly misrepresent
7 and mislead by omission the citizens of this state regarding the
8 full meaning and requirements of the laws of this state.

9 That by the doing of the aforesaid act, Jeremiah W. (Jay)
10 Nixon was and is guilty of willful neglect of duty and misconduct
11 in office, an impeachable offense under Article VII, Section 1 of
12 the Missouri Constitution, and that such act has shaken the faith
13 and confidence of the citizens of the State of Missouri in their
14 ability to have faith in their elected public officials, and has
15 breached the public trust that the laws of this state will be
16 faithfully executed."; and

17 BE IT FURTHER RESOLVED that upon impeachment by the House of
18 Representatives, Governor Jeremiah W. (Jay) Nixon shall stand
19 trial before a special commission of seven eminent jurists to be
20 elected by the Missouri Senate in accordance with Article VII,
21 Section 2 of the Missouri Constitution for willful neglect of
22 duty and misconduct in office; and

23 BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri
24 House of Representatives be instructed to prepare properly
25 inscribed copies of this resolution for Governor Jeremiah W.
26 (Jay) Nixon, the Missouri Supreme Court, and the Missouri Senate.

27
28 I, Timothy W. Jones, Speaker of the House of
29 Representatives, Ninety-seventh General
30 Assembly, Second Regular Session, do certify
31 that the above is a true and correct copy of
32 House Resolution No. _____, adopted _____,
33 2014.

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35 _____
Timothy W. Jones, Speaker