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DEC 23 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-198

December 23, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 33 (2016-198)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 23, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-198

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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2015 DEC 23 AM 10:05
SEC. OF STATE

[Official Ballot title]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ (Name of payer)

_____ Signature of Affiant (Person obtaining signatures)

_____ Printed Name of Affiant

_____ Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 201_____.

Notary Public (Seal)

_____ Signature of Notary

_____ Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-198

Be it enacted by the people of the state of Missouri:

Section A: Sections 386.950 and 386.1000 are enacted to read as follows:

386.950. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, section 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have cumulatively resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.890 or other technology eligible for net metering as defined in 386.890. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as

allowed by 18 CFR § 141, or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least forty-five days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic

development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;
(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;
(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;
(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and
(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1, 3 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department

16-198

of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.