RECEIVED
NOV 03 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

16-131

November 3, 2015

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

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 16 (2016-131)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 3, 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

16-131

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 law 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.

RECEIVED
2015 NOV -3 AM 11:37
SECRETARY 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 _____

16-131

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article III of the Constitution is revised by amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then

16-131

calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 7. 1. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, and within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

16-131

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand

16-131

discharged and the senate shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value

16-131

from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

16-131

Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, two thousand seven hundred dollars; and
   (2) To elect an individual to the office of state representative, two thousand seven hundred dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation.

4. In determining if a contribution to candidate for legislative office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this subsection, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. For purposes of this section, the following terms are defined as follows:

   (1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an

16-131

officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

16-131

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;

b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;

c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the

16-131

two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:

a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or

b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:

a. A broadcast, cable or satellite audio or video communication or internet communication; or

b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's Web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization

16-131

however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

10. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to three times the illegal contributions.

Section 20(f). If any provision of sections 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.