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NOV 05 2015
STATE AUDITORS OFFICE

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

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

16-139

November 5, 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 XIV, version 22 (2016-139)

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 4, 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

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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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[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

My commission expires _____

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

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

Section A. Article XIV of the Constitution relating to Ethics is created by adopting four new sections to be known as Article XIV Sections 1, 2, 3, and 4 to read as follows:

Article XIV

Section 1.

1. No statewide elected officer or member of the general assembly shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such official is elected. No statewide elected officer or member of the general assembly shall act or serve as a paid political consultant or solicit clients to represent as a paid political consultant during any term of office for which such official is elected. Any paid employee of such officials shall also be barred from acting or serving as a paid lobbyist, registering as a paid lobbyist, or soliciting clients to represent as a paid lobbyist until one year after termination of their employment. Any paid employee of such officials shall also be barred from acting or serving as a paid political consultant or soliciting clients to represent as a paid political consultant during their employment.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. This subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this article and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or accepting items that are available or distributed free of charge to members of the general public. However, no such public official or committee controlled by the public official shall accept an in-kind contribution of food, entertainment, lodging, or travel from a lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal.

3. No lobbyist shall deliver any gift, tangible or intangible item, service, or thing of value in excess of five dollars per occurrence to any statewide elected officer or member of the general assembly, or to the spouse, dependent children, staff or employees of such officer or member, or to any department or division director of the executive branch, or to any judicial branch purchasing officer, or to any locally elected government official. This subsection shall not be construed to prevent a lobbyist from delivering to a public official any contribution to a political committee under the control of that public official, consistent with this article and applicable law, any informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or items that are available or distributed free of charge to members of the general public. However, no lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal shall make an in-kind contribution of food, entertainment, lodging, or travel to a public official or political committee controlled by a public official. All gifts by a lobbyist or lobbyist principal to a public official 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.

4. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

5. Any violation of this section shall be punishable by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both.

6. 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; 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

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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; and such person 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.

"Paid political consultant", a person or organization controlled by the person that is paid to promote the election of a candidate, group of candidates or the interest of an organization or committee, as defined under the campaign finance laws of this state, which shall include, but not be limited to, planning campaign strategies, coordinating campaign staff, organizing meetings and public events to publicize the candidate or cause, public opinion polling, providing research on issues or opposition background, coordinating, producing or purchasing print, electronic, digital, broadcast or other media, direct mail production, phone solicitation, fundraising, and any other political activities.

Section 2.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, 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 public office shall not exceed the following:

   (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, five thousand four hundred dollars;
   (2) To elect an individual to the office of state senator, two thousand seven hundred dollars;
   (3) To elect an individual to the office of state representative, two thousand seven hundred dollars; and
   (4) To elect an individual to any other office, including judicial office, 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 section, "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 candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No contribution to a candidate for public office shall be made by or accepted from a corporation.

4. In determining if a contribution to a candidate for public 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 section, 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 public 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 public office is made by a person who is a coordinated spender with respect to the candidate, the payment or

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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. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

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

(1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

(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 public 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

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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;

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

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

11. 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.

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(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 3.

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purpose 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 law or policy for the victim, any violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 4.

If any provision of this article 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.