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IN THE SUPREME COURT OF FLORIDA

Case No. 83,301

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Upon A Request From The  
Attorney General For An  
Advisory Opinion As To The  
Validity Of An Initiative Petition

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IN RE:

ADVISORY OPINION  
TO THE ATTORNEY GENERAL-  
SAVE OUR EVERGLADES TRUST

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INITIAL BRIEF OF SAVE OUR EVERGLADES COMMITTEE  
IN SUPPORT OF SAVE OUR EVERGLADES TRUST INITIATIVE

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TABLE OF CONTENTS

TABLE OF CITATIONS..... iii

STATEMENT OF THE CASE..... 1

SUMMARY OF ARGUMENT..... 2

ARGUMENT..... 4

I. THE SOE INITIATIVE MEETS THE SINGLE-SUBJECT TEST OF ARTICLE XI, SECTION 3 BECAUSE THE TRUST HAS A UNIFIED PURPOSE OF CREATING A TRUST TO ASSIST IN CLEANING UP AND RESTORING THE EVERGLADES..... 6

    A. The SOE Initiative fulfills the purposes of the single-subject requirement to provide a fair, logically unified and understandable issue for the voters and avoids "logrolling" because the specific purpose is to create a trust to assist in cleaning up and restoring the Everglades..... 7

    B. The SOE Initiative meets the part of the single-subject test which reviews impact on other constitutional provisions because it has a minimal impact beyond the creation of a new section of the Constitution creating the SOE trust..... 9

    C. The SOE Initiative meets the part of the single-subject test which considers the functional impact of an initiative because the principal, specific and narrow function of the amendment is to create a trust to assist in Everglades restoration and clean up..... 13

    D. The SOE Initiative is different from cases in which initiatives were found to violate the single-subject rule because those initiatives were far more expansive than the SOE Initiative and substantially affected multiple governmental functions and multiple sections of the Constitution..... 16

II. THE SOE BALLOT LANGUAGE PROVIDES FAIR NOTICE AND IS CLEARLY UNDERSTANDABLE..... 21

III. THE SOE INITIATIVE IS SIMILAR TO OTHER TRUST FUNDS THAT CLEAN UP POLLUTION AND RESTORE NATURAL RESOURCES WHICH ARE FUNDED BY TAXES ON ENTITIES CONTRIBUTING TO POLLUTION..... 23

CONCLUSION..... 26

APPENDICES

I.	Ballot Language and Text of the Initiative.....	27
II.	Language in Other Selected Initiatives.....	30
III.	Appropriations Provisions for the Game and Fresh Water Fish Commission. 1993 Fla. Laws ch. 93-184.....	32
IV.	Ballot Initiative Form.....	38

TABLE OF CITATIONS

<u>Cases</u>	<u>Page(s)</u>
<u>Adams v. Gunter</u> , 238 So. 2d 824 (Fla. 1970).....	5
<u>Askew v. Cross Keys Waterways</u> , 372 So. 2d 913 (Fla. 1978)...	11
<u>Askew v. Firestone</u> , 421 So. 2d 151 (Fla. 1982).....	5,22
<u>Associated Indus. of Massachusetts v. Secretary of the Commonwealth</u> , 595 N.E.2d 282 (Mass. 1992).....	7,12,14,15,21,24
<u>Cady v. Jardine</u> , 193 S.E. 869 (Ga. 1937).....	7-8
<u>Carroll v. Firestone</u> , 497 So. 2d 1204 (Fla. 1986).2,6,12,18-21,31	
<u>Commercial Coating Corp. v. Fla. Dept. of Env'tl. Regulation</u> , 548 So. 2d 677, 678 (Fla. 3d DCA 1989).....	23
<u>Evans v. Firestone</u> , 457 So. 2d 1351 (Fla. 1984).....	13,14,17
<u>Fine v. Firestone</u> , 448 So. 2d 984 (Fla. 1984) .....	5,8-10,12-14,16,17,30
<u>Floridians Against Casino Takeover v. Let's Help Florida</u> , 363 So. 2d 337 (Fla. 1978).....	2,6,8,9,12,18-21,30
<u>Grose v. Firestone</u> , 422 So. 2d 303 (Fla. 1982).....	21
<u>In re Advisory Opinion to the Attorney General - Homestead Valuation Limitation</u> , 581 So. 2d 586 (Fla. 1991).....	14,21
<u>In re Advisory Opinion to the Attorney General - Limited Marine Net Fishing</u> , 620 So. 2d 997 (Fla. 1993).....	8
<u>In re Advisory Opinion to the Attorney General - Limited Political Terms in Certain Elective Offices</u> , 592 So. 2d 225 (Fla. 1991).....	9,10,21
<u>In re Advisory Opinion to the Attorney General - Restricts Laws Related to Discrimination</u> , 19 Fla. L. Weekly S109 (Fla. March 3, 1994).....	8,13,14,17
<u>Lucas v. South Carolina Coastal Council</u> , ___ U.S. ___, 112 S. Ct. 2886 (1992).....	6
<u>McFadden v. Jordan</u> , 196 P.2d 787 (Cal. 1948).....	4
<u>Missourians to Protect Initiative Process v. Blunt</u> , 799 S.W.2d 824 (Mo. 1990).....	4

Cases con't. Page(s)

Porten Sullivan Corp. v. State, 568 A.2d 1111 (Md. 1990).... 8

Smith v. American Airlines, Inc., 606 So. 2d 618 (Fla. 1992). 22

State v. Canova, 94 So. 2d 181 (Fla. 1957)..... 8

Sunbehm Gas, Inc. v. Conrad, 310 N.W.2d 766 (N.D. 1981). 12,15,21

United States Trust Co. v. New Jersey, 431 U.S. 1 (1977).... 6

Weber v. Smathers, 338 So. 2d 819 (Fla. 1976)..... 4,5,8,21

Florida Statutes

§ 16.061..... 1

§ 24.102..... 18

§ 101.161(1)..... 5,22

§ 206.9935(2), (3) (b)..... 23,24

§ 206.9945(1) (a)-(c)..... 23,24

§ 216.136(3)..... 7

§ 372.01..... 28

§ 376.11(4)..... 24

§ 376.307..... 24

§ 376.3071(3), (4)..... 23

§ 489.113(7)-(9)..... 24

1993 Fla. Laws ch. 93-184..... 32

Constitutional Provisions

Art. I, § 2, Fla. Const..... 10

Art. I, § 6, Fla. Const..... 10

Art. II, § 3, Fla. Const..... 11

Art. III, § 6, Fla. Const..... 8

Art. III, § 19, Fla. Const..... 27,28

Art. IV, § 9, Fla. Const..... 7,15,28

Art. IV, § 10, Fla. Const..... 1,5

Art. VII, § 1 (c), Fla. Const..... 12

Art. VII, § 7, Fla. Const..... 7

Art. X, § 15, Fla. Const..... 28,30

Art. XI, § 3, Fla. Const..... 5,6,10,17,20

Art. XII, § 9 (2)(c) & (d), Fla. Const..... 7

United States Code

16 U.S.C. §§ 669-669i, 777-777k..... 25

23 U.S.C. §§ 120, 304, 307..... 25

26 U.S.C. §§ 4041, 4061, 4071-73, 4084, 4226, 4227, 4481-84, 6206, 6302, 6412, 6416, 6421, 6422, 6504, 6511, 6612, 6675, 7210, 7603-05..... 25

<u>Other Authority</u>	<u>Page(s)</u>
Op. Atty. Gen., 074-390, Dec. 23, 1974.....	24
Michael J. Bean, <u>The Evolution of National Wildlife Law</u> , 236-54 (1977).....	25
Edwin S. Corwin, <u>The "Higher Law" Background of American Constitutional Law</u> , 42 HARV. L. REV. 149, 160 n.36 (1928)...	7
Julian N. Eule, <u>Judicial Review of Direct Democracy</u> , 99 YALE L. R E V . . . . . 1 5 0 3 (1990).....	4
James D. Gordon & David B. Magleby, <u>Pre-Election Review of Initiatives and Referendums</u> , 64 NOTRE DAME L. REV. 298 (1989).4-5	
B. Suzi Ruhl & Sharon K. Lowe, <u>A SUPER Response to LUST in Florida</u> , 14 FLA. ST. U. L. REV. 607 (1986).....	23

STATEMENT OF THE CASE

In accordance with Article IV, section 10 of the Florida Constitution and section 16.061 Florida Statutes (1993), the Attorney General, on March 2, 1994, petitioned the Supreme Court for an advisory opinion on the validity of the initiative petition of Save Our Everglades. The Court issued an interlocutory order on March 11, 1994, for briefing and oral arguments.

## SUMMARY OF ARGUMENT

Because of the importance of the initiative process, the burden is on the challenger to demonstrate to this Court that the Save Our Everglades (SOE) petition is clearly and conclusively defective. Under the procedures for reviewing the initiative process by advisory opinion, this Court must determine the validity of the initiative under the single-subject rule and compliance of the ballot language with constitutional and statutory requirements.

The Save Our Everglades initiative is drafted to present a unified, understandable issue to the public consistent with this court's opinions in Floridians Against Casino Takeover v. Let's Help Florida, 363 So. 2d 337 (Fla. 1978), and Carroll v. Firestone, 497 So. 2d 1204 (Fla. 1986). In those cases, the court accepted a method for raising money that could then be designated for a particular purpose. While opinions have varied on the Floridians case, based upon the court upholding the initiative which allowed casino gambling and provided for criminal justice and education spending, it was cited with approval in Carroll.

The Save Our Everglades initiative is narrower than the initiatives in either Carroll or Floridians. The narrow and limited purpose of the Save Our Everglades initiative is to create a trust to assist in the restoration and clean up of the Everglades. The methodology chosen is consistent with other provisions of the Florida Constitution which operate in a very similar way. Specifically, the Game and Fresh Water Fish



Commission is funded by fees which are appropriated for a defined constitutional purpose. Florida, as well as the federal government and other states, routinely uses a tax on an industry to assist in restoration or clean up of the environment. The Save Our Everglades initiative uses precisely this mechanism to assist in restoring the Everglades.

The ballot language of the Save Our Everglades initiative meets the broad requirements to present the "chief purpose" of the amendment. The ballot language clearly describes the purpose of creating a trust to assist in restoring the Everglades.

## ARGUMENT

### INTRODUCTION

This Court has long recognized the importance of the initiative as part of "a constitutional democracy in which sovereignty resides with the people." Weber v. Smathers, 338 So. 2d 819, 821 (Fla. 1976) (quoting Gray v. Golden, 89 So. 2d 785, 790 (Fla. 1956)). The ballot initiative is not an uncommon political process, and other states provide for amendment of their constitutions by ballot initiative.<sup>1</sup> The importance of allowing the public to voice its opinion by referenda is generally recognized by courts in other states.<sup>2</sup> The challenger bears the

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<sup>1</sup>See Eule, Judicial Review of Direct Democracy, 99 YALE L. J. 1503, 1587-1588 (1990).

<sup>2</sup>See McFadden v. Jordan, 196 P.2d 787, 788 (Cal. 1948) ("The right of initiative is precious to the people and is one which courts are zealous to preserve to the fullest tenable measure of spirit as well as letter."); Missourians to Protect Initiative Process v. Blunt, 799 S.W.2d 824, 827 (Mo. 1990):

Nothing in our constitution so closely models participatory democracy in its pure form . . . When courts are called upon to intervene in the initiative process, they must act with restraint, trepidation and a healthy suspicion of the partisan who would use the judiciary to prevent the initiative process from taking its course. Constitutional and statutory provisions relative to initiative are liberally construed to make effective the people's reservation of that power. . . . Courts are understandably reluctant to become involved in pre-election debates over initiative proposals. Courts do not sit in judgment on the wisdom or folly of proposals. (emphasis added).

See also Gordon & Magleby, Pre-Election Judicial Review of Initiatives and Referendums, 64 NOTRE DAME L. REV. 298, 306 n. 64 (1989) discussing the roots of the initiative process in the progressive era as a populist means to:

deprive machine government of the advantages it had in checkmating popular control, and make government accessible to the superior disinterestedness and honesty of the average

burden of removing an initiative that has met the technical requirements to be brought to the people. A court must act with extreme care before removing an initiative from the ballot. See Askew v. Firestone, 421 So. 2d 151 (Fla. 1982).

The standard of review consistently adopted by this Court when an initiative amendment is challenged is that the challenger must show it to be "clearly and conclusively defective." Weber, 338 So. 2d at 821 (citing Goldner v. Adams, 167 So. 2d 575 (Fla. 1964)). This Court has also said that it will not "address the wisdom or merit" of an amendment proposed by initiative. Fine v. Firestone, 448 So. 2d 984, 992 (Fla. 1984).

Under Article IV, section 10, of the Constitution of the State of Florida, this Court, by advisory opinion, must consider the validity of an initiative to be placed on the ballot based on the standard as set forth in Article XI, section 3. The questions for this Court are: (1) whether an initiative does "embrace but one subject and matter directly connected therewith"<sup>3</sup> and (2) whether the initiative has legally sufficient ballot language.<sup>4</sup>

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citizen. Then, with the power of the bosses broken or crippled, it would be possible to check the incursions of the interests upon the welfare of the people and realize a cleaner, more efficient government. (quoting R. Hofstadter, The Age of Reform: From Bryan to F.D.R. 255 (1955)).

<sup>3</sup>Art. XI, § 3, Fla. Const. was amended in 1972 to allow initiatives to amend more than one section. Previously, an initiative creating a unicameral legislature was struck as defective since it affected several sections. Adams v. Gunter, 238 So. 2d 824 (Fla. 1970). The 1972 amendment allowed amendment of several sections and added the one subject language.

<sup>4</sup>§ 101.161(1), Fla. Stat. (1993).

The Save Our Everglades (hereinafter SOE) Initiative is narrowly constructed to provide a trust fund for contributing<sup>5</sup> to the clean up and restoration of the Everglades. The language of the amendment and the terminology of the ballot language have a clear and easily understood purpose.

I.

THE SOE INITIATIVE MEETS THE SINGLE-SUBJECT TEST OF ARTICLE XI, SECTION 3 BECAUSE THE TRUST HAS A UNIFIED PURPOSE OF CREATING A TRUST TO ASSIST IN CLEANING UP AND RESTORING THE EVERGLADES

The single subject and purpose of the SOE Initiative is to create a trust fund to assist in cleaning up the Everglades. All other language is directly related to that purpose. Like the creation of the lottery trust approved in Carroll v. Firestone, 497 So. 2d 1204 (Fla. 1986), and the casino fund approved in Floridians Against Casino Takeover v. Let's Help Florida, 363 So. 2d 337 (Fla. 1978), the SOE Initiative identifies a funding source and describes a purpose for expenditure. But even more tightly drawn than either of the other two approved initiatives, the purpose the SOE Initiative describes for appropriation is directly related to the source of collection. The source of funding is the sugar industry in the Florida Everglades, which has had an impact on the environment of the Everglades.

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<sup>5</sup>This initiative does not burden in an inequitable manner, an "obvious target class," in that it requires everyone to contribute to the Everglades restoration. This initiative only requires contributions for doing business. Cf., e.g., United States Trust Co. v. New Jersey, 431 U. S. 1 (1977) and Lucas v. South Carolina Coastal Council, \_\_\_ U. S. \_\_\_, 112 S. Ct. 2886 (1992).

Another example of a trust that operates in a similar fashion to the way in which the SOE trust would operate is the Game and Fresh Water Fish Commission. Article IV, section 9, Fla. Const. The revenue estimating process<sup>6</sup> estimates the proceeds to the trust and the legislature appropriates consistent with the purposes articulated in the Constitution in Article IV, section 9<sup>7</sup> just as it would for the SOE trust. The Florida Constitution contains other provisions which allocate specific revenues to specific purposes.<sup>8</sup>

Several means of analysis are used for the single-subject test: unity of purpose, impact on governmental functions and impact on other sections of the Constitution.

A. The SOE Initiative fulfills the purposes of the single-subject requirement to provide a fair, logically unified and understandable issue for the voters and avoids "logrolling" because the specific purpose is to create a trust to assist in cleaning up and restoring the Everglades.

The major principles of the single-subject rule are to avoid joining unrelated issues and promote clarity.<sup>9</sup> The single-subject

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<sup>6</sup>§ 216.136 (3), Fla. Stat. (1993).

<sup>7</sup>See Appendix III for an example of appropriation to the Game and Fresh Water Fish Commission Trust Fund in 1993; see also Associated Indus. of Massachusetts v. Secretary of the Commonwealth, 595 N.E.2d 282 (Mass. 1992), discussed infra at 14.

<sup>8</sup>Pari-mutuel taxes (Art. VII, § 7); motor vehicle fuel taxes (Art. XII, § 9 (2)(c)); motor vehicle license taxes (Art. XII, § 9 (2)(d)).

<sup>9</sup>The single-subject rule is an ancient part of law. The Roman law prohibited the "proposal of any law containing two or more matters not germane." Edwin S. Corwin, The "Higher Law" Background of American Constitutional Law, 42 HARV. L. REV. 149, 160 n.36 (1928). The idea entered American jurisprudence very early, appearing in the Georgia Constitution of 1798. See Cady v.

requirement operates to prevent "logrolling," the combination of several unrelated proposals, each designed to target a different group of voters. Floridians, 363 So. 2d at 339; Fine, 448 So. 2d at 988. Logrolling is objectionable because it compels voters to approve unwanted portions of an amendment to secure those portions which they do support.<sup>10</sup>

This Court stated that the purpose for the single-subject rule is "to prevent the proposal of an amendment which contains two unrelated provisions, one which electors might wish to support and one which they might disfavor." In re Advisory Opinion to the Attorney General - Limited Marine Net Fishing, 620 So. 2d 997, 998 (Fla. 1993).

A recent example of the failure to comply with the rule is In re Advisory Opinion to the Attorney General - Restricts Laws Related to Discrimination, 19 Fla. L. Weekly S109 (Fla. March 3,

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Jardine, 193 S.E. 869, 870 (Ga. 1937) (discussing the adoption of the rule as a response to the scandal of the sale of Georgia's western lands as a part of an act purporting to be a measure to protect the western frontier); see also Porten Sullivan Corp. v. State, 568 A.2d 1111, 1115-17 (Md. 1990) (discussing the inclusion of the rule in Maryland and other states in the nineteenth century); State v. Canova, 94 So. 2d 181, 183-84 (Fla. 1957) (discussing the reasons behind the inclusion of the single-subject rule in the Florida Constitution of 1868).

<sup>10</sup>The court initially compared the single-subject requirement with the restriction found in Art. III, § 6, Fla. Const. whereby legislative acts must "embrace but one subject and matter properly connected therewith." Floridians, 363 So. 2d at 340-41; Weber, 338 So. 2d at 823 (England, J., concurring). However, the court has modified its scrutiny of amendments proposed by initiative. According to the court, closer scrutiny is needed because the initiative process lacks the public discussion and legislative debate inherent in amendments adopted by the legislature. Fine, 448 So. 2d at 988.

1994). In that case, the court repeated the rationale that the rule is to "prevent voters from being trapped." The proposal had an impact on laws affecting discrimination at all levels of government and in several different categories of discrimination. The court emphasized that the initiative failed to present the voters with a fair question but presented them with multiple and distinct questions.

A proposed amendment must have a "logical and natural oneness of purpose." Fine, 448 So. 2d at 990. The court has stated this standard as whether the proposed amendment has "a natural relation and connection as component parts of a single dominant plan or scheme. Unity of object and plan is the universal test . . . ." Floridians, 363 So. 2d at 339 (quoting City of Coral Gables v. Gray, 19 So. 2d 318, 320 (Fla. 1944)). According to this standard, all of the provisions of a proposed amendment must be reasonably necessary to the overall goals of the amendment. Fine, 448 So. 2d at 990; In re Advisory Opinion to the Attorney General - Limited Political Terms in Certain Elective Offices, 592 So. 2d 225, 227 (Fla. 1991).

The provisions of the SOE Initiative all relate directly to its mission of providing a funding source to contribute to Everglades restoration. The question asked of the voters is fair, direct and singular.

**B. The SOE Initiative meets the part of the single-subject test which reviews impact on other constitutional provisions because it has a minimal impact beyond the creation of a new section of the Constitution creating the SOE trust.**

A proposed amendment may amend multiple sections of the

Constitution as long as the proposal contains a single subject. See Fine, 448 So. 2d at 989. The court specifically stated that "how an initiative proposal affects other articles or sections of the constitution is an appropriate factor to be considered in determining whether there is more than one subject included in an initiative proposal." Id. at 990 (emphasis added). Mere impact on multiple sections is not enough to violate the single-subject rule.<sup>11</sup> For example, the limitation of terms initiative, which passed the single-subject test, affected multiple constitutional sections. In re Advisory Opinion to the Atty. Gen., Limited Political Terms in Certain Elective Offices, 592 So. 2d at 227. However, the court will consider multiple impacts as a factor.

In the recent case of In re Advisory Opinion to the Atty. Gen., Restricts Laws Related to Discrimination, 19 Fla. L. Weekly at S109, the court recognized that the collateral impact on other provisions of the Constitution affects the single-subject consideration in the constitutionally prescribed advisory opinion.

In that case, the court found the initiative affected Article I, section 2, and Article I, section 6. These provisions govern rulemaking authority of executive agencies, rulemaking authority of judicial agencies, and home rule powers of local governments. In other words, the collateral effects of the initiative were broad, complex and difficult for voters to interpret. "The voter is

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<sup>11</sup>Art. XI, § 3, Fla. Const. provides for amendment of "any portion or portions of this constitution" by initiative. This wording reflects a change, approved in 1972, of the original wording of the 1968 Florida Constitution, which allowed initiatives "to propose amendments to any section of this constitution."



essentially being asked to give one 'yes' or 'no' answer to a proposal that actually asks ten questions." Id. at 5.

The SOE Initiative is narrowly drawn and creates one new section of the Constitution. The provision creates a trust to assist in cleaning up the Everglades and raises revenue for that purpose. The legislature then appropriates to the trust. Specifically, this provision provides funds and describes purposes for the legislature to appropriate. See Appendix I.

Another question relating to impact on sections of the Constitution is the possible impact on the separation of powers section of the Constitution, Article II, section 3, which states in part "[n]o person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein." Florida has held to a strict standard of separation of powers compared with other states and the federal standard. See Askew v. Cross Keys Waterways, 372 So. 2d 913 (Fla. 1978).

In the SOE Initiative, the functions of the Trustees in executing the purposes of the Everglades restoration are executive rather than legislative. The expenditure of funds is made only after the legislature appropriates funds, just as the legislature does in the analogous situation of the Game and Fresh Water Fish Commission.<sup>12</sup> The provisions designating that the legislature appropriate the funds is key since appropriation is a legislative

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<sup>12</sup>See Appendix III.

function.<sup>13</sup> This issue is further analyzed below in the section regarding the functional impact component of the single-subject test. See infra p. 13. Other cases have specifically held that similar language does not constitute performing a legislative function.<sup>14</sup> The purpose of the trust is narrow and does not rely on other sections of the Constitution to be operational nor does it substantially impact other sections of the Constitution.

The Fine court cites with approval the opinion in Weber, which stated that in a proper initiative, "the proposed amendment is sufficiently complete within itself, requiring no other amendment to effect its purpose." Fine, 448 So. 2d at 990 (quoting Weber, 338 So. 2d at 822). This statement is true of the SOE Initiative. The SOE Initiative "requires no other amendment to effect its purpose."

In sum, impact on other sections is minimal and the SOE provisions do not compare to those cases where functional and multi-section impact have resulted in an initiative violating the single-subject rule. Further, the SOE Initiative supports the rationale for the rule in that the impact on other sections does not create confusion to the voters or make the purpose of the initiative unclear.

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<sup>13</sup>Art. VII, § 1 (c), Fla. Const.

<sup>14</sup>E.g., Carroll, 497 So. 2d at 1207 (lottery); Floridians, 363 So. 2d at 338 (casinos); Associated Indus., 595 N.E.2d at 285-286 (petroleum trust fund); Sunbehm Gas, Inc. v. Conrad, 310 N.W.2d 766, 769 (N.D. 1981).

C. The SOE Initiative meets the part of the single-subject test which considers the functional impact of an initiative because the principal, specific and narrow function of the amendment is to create a trust to assist in Everglades restoration and clean up.

A consideration of the single-subject test is how an initiative affects multiple functions of government. As previously stated, an initiative may now affect multiple sections of the Constitution as compared to the pre-1972 test, which required that the initiative affect only one section of the Constitution. The question for this Court is how the proposed amendment affects functions of government. Fine, 448 So. 2d at 990; Evans v. Firestone, 457 So. 2d 1351, 1353 (Fla. 1984). In Fine, the court noted that the proposed amendment operated to restrict the use of taxes, the operation of user-free services and the use of revenue bonds to fund capital improvements. Thus, the proposed amendment improperly affected three legislative functions - taxation, service and finance. Fine, 448 So. 2d at 990-92. The effects on these functions were substantial. In Evans, the court found that a proposed amendment to limit liability of defendants in civil actions, which also codified judicial rules of summary judgment, improperly affected separate functions of the legislative and judicial branches of government. Evans, 457 So. 2d at 1354.

Another example of an initiative affecting multiple functions was In re Advisory Opinion to the Atty. Gen., Restricts Laws Related to Discrimination, 19 Fla. L. Weekly at S109. The court, as noted previously, cited impact on different branches and different levels of government concluding the initiative would present at least ten different questions to the voters.

Complexity does not equate to violation of the functional test. For example, the initiative to control homestead exemption contains a formula to be applied to future taxation, including application of the consumer price index. In re Advisory Opinion to the Attorney General - Homestead Valuation Limitation, 581 So. 2d 586 (Fla. 1991). The court concluded that the single purpose was to control valuation of homestead property and all other language was properly and directly related to that purpose.

The SOE Initiative serves a unified purpose and does not impinge on multiple functions of government in the ways in which the proposals in Fine, Evans, and In re Advisory Opinion to the Atty. Gen., Restricts Laws Related to Discrimination did. In each of those cases, the impacts on multiple functions were substantial, diverse and not easily understood by voters.

The creation of a trust fund and directing the appropriations for a defined purpose, as in the SOE Initiative is not an impingement on the appropriations function of the legislature. Funds that are transferred automatically, without an appropriation by the legislature, could be viewed as performing the appropriations function. See Associated Indus., 595 N.E.2d at 285. The SOE Initiative language states that the funds from the trust "shall be appropriated by the Legislature to the Trustees." This language is virtually the same as the appropriation language for the Game and Fresh Water Fish Commission to which the legislature annually appropriates funds derived from fees that "shall be

appropriated to the commission by the legislature."<sup>15</sup> In each of these provisions, the language provides for the legislature to set priorities and appropriate consistent with the legislative function. See Appendix III.

A case involving an analogous initiative examined whether an excise tax, designated to a trust fund with a defined purpose of pollution clean up, performed an appropriation function. Associated Indus., 595 N.E.2d at 282. The Massachusetts Supreme Court found it did not. A measure, which was much more restrictive on the legislature, was found not to interfere with the legislature's authority to appropriate in North Dakota. See Sunbehm, 310 N.W.2d at 766. The initiative mandated a certain percentage of funds, which the legislature must spend. Id. at 767. This measure was a public statutory initiative in North Dakota, which met the single-subject test. Although the initiative in North Dakota was to create a statute, the fundamental purpose for single-subject requirement is the same as in the Florida initiative: avoid logrolling and promote clarity. Even more important to the functional test being examined here, the court found that this quite explicit direction to the legislature did not interfere with the constitutional appropriations powers. Id. at 769-770.

Under the SOE Initiative the legislature is free to review the priorities within the designated purpose of the trust and make its decisions in compliance with its own priorities within the

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<sup>15</sup>Art. IV, § 9, Fla. Const.

constitutional purposes of the trust.

The functional impact of the SOE Initiative is limited to operating a trust fund to assist in restoring the Everglades. The function is understandable, clear and singular.

**D. The SOE Initiative is different from cases in which initiatives were found to violate the single-subject rule because those initiatives were far more expansive than the SOE Initiative and substantially affected multiple governmental functions and multiple sections of the Constitution.**

The SOE Initiative has a single unified purpose. It does not affect constitutional provisions or affect governmental functions in a manner that constitutes a multiple subject initiative. Examples of the cases in which this court has found a violation of the single-subject rule provide a stark contrast to the SOE Initiative.

For example, in Fine v. Firestone, this Court found a violation because of the amendment's impact on numerous governmental functions and the lack of a coherent unified purpose. As Justice Shaw said in his concurrence, the measure was unclear and lacked logical unity. "The limits of the initiative are not clear and the scope of the single word 'revenue' is so broad that citizens might well approve of limitations on one source of revenue while contrarily disapproving of limitations on other sources." Fine, 448 So. 2d at 998. The initiative in Fine affected state and local governments, as well as government utilities like electrical utilities and water and sewer. It also affected ad valorem, personal property, sales and use taxes. The court enumerated at least six sections of the Constitution which were "substantially

affected." Id. at 991.

Similarly in Evans, citing Fine, the court found "[w]here separate provisions of a proposed amendment are an 'aggregation of dissimilar provisions [designed] to attract support of diverse groups to assure its passage,' 448 So. 2d at 988, the defect is not cured by either application of an over-broad subject title or by virtue of being self-contained." Evans, 457 So. 2d at 1354. Provisions (a) and (c) of that amendment limited a defendant's liability - a substantive legislative function. In contrast, provision (b) of the amendment proposed to elevate to constitutional mandate the summary judgment rule contained in Florida Rule of Civil Procedure 1.510, which is clearly a judicial function. Because of the initiatives direct and controlling effect, the court said "where such an initiative performs the functions of different branches of government, it clearly fails the functional test for the single-subject limitation the people have incorporated into Article XI, section 3, Florida Constitution." In addition to performing a legislative function, the proposed initiative proposed a constitutional mandate to the judiciary on summary judgment, through direct constitutional language. The language dictates a decision and its result rather than empowering the court. The court said the initiative "performs the functions" of several branches, which, therefore, shows the affect on multiple subjects.

In In re Advisory Opinion to the Atty. Gen., Restricts Laws Related to Discrimination, the court noted that the voters were

asked ten questions, enumerating multiple substantial impacts on other constitutional sections. 19 Fla. L. Weekly at S109; see discussion supra p. 10. The court seemed particularly concerned with the fact that the initiative had an impact on future passage and implementation of human rights policies, which would be difficult for voters to understand. The prospective and uncertain effect on important fundamental rights clearly violates the principles of the single-subject rule.

Because of the way the SOE Initiative is drafted, it is well within the precedents which have upheld initiatives. Furthermore, the SOE Initiative is quite distinct from those initiatives which violated the single-subject rule. In addition, the SOE Initiative would survive even the scrutiny of the dissenting opinions in the important cases of Carroll and Floridians.

In Carroll, 497 So. 2d at 1206, although the trust fund was entitled the State Education Lotteries Trust Fund, the funds were appropriated by the legislature without restriction. Id. This procedure was held not to violate the single-subject requirement because the proposed amendment created the lottery and only suggested a recipient, while giving the legislature discretion to appropriate the funds. Id. at 1207. Educational funding was the stated beneficiary of the lottery and all funds have subsequently been appropriated to educational purposes. Fla. Stat. § 24.102 (1993).

Rather than linking issues of casinos and education or lotteries and education, the SOE Initiative is an excise tax that



is logically and properly linked to the purpose of expending funds for clean up. The proposed Everglades Amendment should pass even the more rigorous standards proposed by Justices Ehrlich (Carroll, 497 So. 2d at 1208 (Ehrlich, J., concurring)) and Boyd (Floridians, 363 So. 2d at 342 (Boyd, J., dissenting)). Further, subsection (c) of the proposed amendment, while stating the source of funding for the established Trust, gives the legislature discretion in the appropriation of collected funds. See Appendix I.

No specific percentages of funds are directed to go to any particular purpose. The overall purposes are described in the amendment and the legislature is free to appropriate within those purposes. In fact, the designation of funds for the purpose of assisting in cleaning up and restoring the Everglades strengthens the case for the initiative being a single subject. For example, while designating a purpose of supporting education might survive a single-subject test, the logic of tying a tax contribution to clean up an environmental resource which the taxpayer has contributed to harming, is even more logically sound. The targeted Trust and its purpose of Everglades conservation are closely and logically linked to the source of the funds, i.e. an excise tax on an industry having an impact on polluting the Everglades. Even more than the lottery amendment considered in Carroll (linking the subjects of lotteries and education), and the casinos amendment in Floridians (linking casinos with education and law enforcement), the proposed Everglades Amendment avoids the fatal flaw of "logrolling".

The Justices who dissented in Floridians expressed concern that tying the topic of casino gambling to the topic of funding criminal justice and education did not comprise a "matter directly connected therewith." 363 So. 2d at 342. Justice Boyd said,

[t]he combination of the two subjects in the proposed amendment is a classic example of the very evil which the one subject limitation is designed to prevent. This is so because the interest of those citizens who favor casino gambling is not necessarily the same as the interest of those citizens who seek additional tax revenues for the support and maintenance of free public schools and local law enforcement.

Id. at 342-343.

In his concurring opinion in Carroll, Justice Ehrlich agreed with Boyd's reasoning. He said the infirmity was that the revenue generated by "casino gambling would be inextricably linked to funding education and law enforcement." Carroll, 497 So. 2d at 1208. He felt that a "locked-in" revenue provision in the casino case made the provision defective. The majority did not find either the casino language or the lottery language to violate the single-subject rule. But even under Justice Ehrlich's more restrictive test, the SOE Initiative survives because the purpose of raising funds is unified with the purpose of its expenditure. While Casino gambling appears to be a distinct policy issue from educational spending, the policy of polluters sharing the cost for clean up is a single concept.

The constitutional language used in the single-subject standard is most persuasive as to the compliance of the SOE Initiative. The "revision or amendment shall embrace but one subject and matter directly connected therewith." Art. XI, § 3,

Fla. Const. The initiative creates a trust to clean up and restore the Everglades. All other language is directly connected to that purpose. Establishing a source of funding and designating the destination of the funds is well within the single-subject rule.<sup>16</sup> Reforms with much broader purposes have been held to be within the single-subject limits. In Weber, the court found a sweeping reform of financial disclosure and ethical conduct to be under the single subject of "ethics in government." 338 So. 2d at 820. Here, the topic is more narrowly drawn and specifically articulated than most of the initiatives which have passed the single-subject test.<sup>17</sup>

## II.

### THE SOE BALLOT LANGUAGE PROVIDES FAIR NOTICE AND IS CLEARLY UNDERSTANDABLE

Statutory requirements and Supreme Court review of ballot language is well defined. The Court has generally upheld ballot language. The standard applied is that the summary must give "fair notice" and the "chief purpose" of the measure. See Grose v. Firestone, 422 So. 2d 303, 305 (Fla. 1982).

The substance of an amendment is to be articulated in an

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<sup>16</sup>See Associated Indus., 595 N.E. 2d 282, Carroll, 497 So. 2d 1204, Floridians, 363 So. 2d 337, Sunbehm, 310 N.W.2d 766. Section III infra p. 23.

<sup>17</sup>E.g., In re Advisory Opinion to the Atty. Gen., Limited Political Terms in Certain Elective Offices, 592 So. 2d at 229; In re Advisory Opinion to the Atty. Gen., Homestead Valuation Limitation, 581 So. 2d at 588; Carroll, 497 So. 2d at 206-207 (lotteries); Floridians, 363 So. 2d at 342 (casino gambling); Weber, 338 So. 2d at 823 (ethics in government).

"explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure." Fla. Stat. § 101.161 (1). There shall also be a ballot title not to exceed 15 words in length "by which the measure is commonly referred to or spoken of." Id.

The language used is not required to explain all possible ramifications of the amendment but "must advise the voter sufficiently to enable him intelligently to cast his ballot." Askew v. Firestone, 421 So. 2d at 155.

The SOE ballot summary states that a trust is created to restore the Everglades, describes the source of funding, the amount of the fee, the duration of the fee, and states that the trustees will be citizens. This language describes thoroughly the chief purpose of the measure.

As noted, a challenger has the burden to demonstrate to this Court that the ballot language is clearly and conclusively defective. An example of when that burden was met is Smith v. American Airlines, Inc., 606 So. 2d 618, 620 (Fla. 1992). In Smith, the court found for the challenger in a case involving leaseholds of government owned property. The court concluded that the language was vague, because the summary failed to specify the impact of the amendment which could have increased "as much as fifteen times the current [tax] rate" on certain property. The language was substantially flawed and did not fairly advise the voters of a major impact of the initiative.

By comparison, the SOE ballot language fairly discloses and describes the purpose of the initiative and its impact. The

language describes the fee on sugar production, the creation of the trust and the purposes for which the funds will be expended.

### III.

THE SOE INITIATIVE IS SIMILAR TO OTHER TRUST FUNDS THAT CLEAN UP POLLUTION WHICH ARE FUNDED BY TAXES ON ENTITIES CONTRIBUTING TO POLLUTION

Excise fees on products other than sugarcane have been designated for certain trust funds established by the Florida Legislature. These examples demonstrate that the methodology proposed by the SOE Initiative is an accepted public policy and has met the legislative single-subject test. For example, Florida Statutes § 376.3071 created the Inland Protection Trust Fund.<sup>18</sup> The purpose of the Fund is to clean up contamination by petroleum leaking from underground storage tanks. Fla. Stat. § 376.3071(4). The Fund receives excise taxes on petroleum products produced in or imported into Florida at a rate of 30, 60 or 80 cents per barrel. The amount of the tax depends on the balance of the Fund such that the more money in the Fund the less the excise tax. Fla. Stat. §§ 376.3071 (3); 206.9935(3)(b); 206.9945(1)(c). See also Commercial Coating Corp. v. Fla. Dept. of Env'tl. Regulation, 548 So. 2d 677, 678 (Fla. 3d DCA 1989) (mentioning the designation of excise taxes on petroleum products to the Inland Protection Trust Fund).

Any excise tax on production of sugar will apply only to sugar

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<sup>18</sup>For a fuller discussion of the State Underground Petroleum Environmental Response (SUPER) Act, which established the Inland Protection Trust Fund, see B. Suzi Ruhl & Sharon K. Lowe, A SUPER Response to LUST in Florida, 14 FLA. ST. U. L. REV. 607 (1986).

produced and/or refined within the Everglades Agricultural Area. Other state trust funds collect from excise taxes of general statewide applicability. Another example of localized application was the original Inland Protection Trust Fund Act, which provided for the Department of Environmental Regulation to establish a pilot inspection program in one county, charging fees of up to \$200 per tank. Fla. Stat. § 489.113(7)-(9).

Compare the excise taxes levied on terminal facilities for transportation of pollutants such as petroleum over water. Under Florida Statutes §§ 376.11 and 206.9945(1)(a), funds collected from such taxes are designated to the Florida Coastal Protection Trust Fund. This Fund is used to clean up discharges of pollutants in coastal areas. Fla. Stat. § 376.11(4). Discussing the excise tax of this provision, the Florida Attorney General termed it a license tax on registrants for the privilege of operating terminal facilities. The tax was an added "cost of doing business". Op. Atty. Gen., 074-390, Dec. 23, 1974.

A similar excise tax on sales of lead-acid batteries, solvents, motor oil and several chemicals provides funds for the Water Quality Assurance Trust Fund pursuant to Fla. Stat. §§ 206.9935(2), 206.9945(1)(b) and 376.307.

Similar excise taxes have been employed in other states for similar purposes. Recall the initiative in Massachusetts for funding a clean up of hazardous waste sites. Associated Indus., 595 N.E.2d at 282. The source for funding is an excise tax on "first possession" of oil and hazardous materials within the

Commonwealth.

Similar excise taxes often have been applied on the federal level. For example, the interstate highway system is financed through the Highway Trust Fund, established by the Highway Revenue Act of 1956.<sup>19</sup> The Act allocates revenues from motor vehicle and fuel taxes for the Fund.

Similarly, the Federal-Aid in Wildlife Restoration Act and the Federal-Aid in Fish Restoration Act, also known as the Pittman Roberson Act (codified as 16 U.S.C. §§ 669-669i) and the Dingell-Johnson Act (16 U.S.C. §§ 777-777k) both establish funds, one from excise taxes on firearms, shells and cartridges, the other from excise taxes on the sale of sport fishing equipment. The funds go to federal wildlife and fish conservation programs, and are used to acquire and manage habitat areas. See Michael J. Bean, *The Evolution of National Wildlife Law*, 236-54 (1977).

Utilizing taxes on industry to clean up or respond to impacts of that particular industry is a common and accepted practice in Florida, at all levels of government, and in the various states. The SOE Initiative is exactly that kind of mechanism.

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<sup>19</sup>Pub. L. No. 84-627, 70 Stat. 387 (1956), codified as amended at 23 U.S.C. §§ 120, 304, 307; 26 U.S.C. §§ 4041, 4061, 4071-73, 4084, 4226, 4227, 4481-84, 6206, 6302, 6412, 6416, 6421, 6422, 6504, 6511, 6612, 6675, 7210, 7603-05.

CONCLUSION

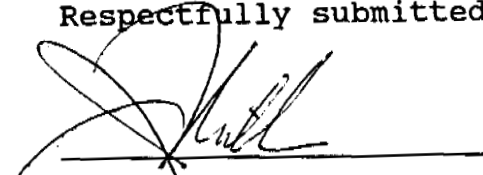
For the reasons stated, it is respectfully submitted that the SOE Initiative complies fully with the single-subject rule and is drafted to present a clear and singular issue to the public: whether a trust to clean up the Everglades should be created. All other language relating to collection of fees to fund the trust, appropriation to the trust and appointment of the trustees is directly related to the core unified purpose.

The ballot language of the SOE Initiative complies with statutory requirements and is a clear statement that describes the chief purpose of the initiative as creating a trust to restore the Everglades. The ballot language identifies the source of funds and the nature of the fee.

Government frequently uses excise taxes or fees to raise revenues from industries to help defray the impact of that industry. The fee on sugar production is precisely this type of funding mechanism.

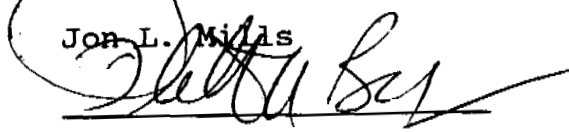
The SOE Initiative is well within the Florida Constitution's requirement that an initiative deal with a single subject and similar to well established means of raising revenues for environmental clean up. The initiative should therefore be approved by this Court.

Respectfully submitted,



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Jon L. Mills



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Fletcher N. Baldwin



Appendix I. Ballot Language and Text of the Initiative

TITLE: SAVE OUR EVERGLADES

SUMMARY: Creates the Save Our Everglades Trust to restore the Everglades for future generations. Directs the sugarcane industry, which polluted the Everglades, to help pay to clean up pollution and restore clean water supply. Funds the Trust for twenty-five years with a fee on raw sugar from sugarcane grown in the Everglades Ecosystem of one cent per pound, indexed for inflation. Florida citizen trustees will control the Trust.

FULL TEXT OF PROPOSED AMENDMENT:

(a) The people of Florida believe that protecting the Everglades Ecosystem helps assure clean water and a healthy economy for future generations. The sugarcane industry in the Everglades Ecosystem has profited while damaging the Everglades with pollution and by altering water supply. Therefore, the sugarcane industry should help pay to clean up the pollution and to restore clean water. To that end, the people hereby establish a Trust, controlled by Florida citizens, dedicated to restoring the Everglades Ecosystem, and funded initially by a fee on raw sugar from the sugarcane grown in the Everglades Ecosystem.

(b) Article X, Florida Constitution, is hereby amended to add the following:

"Section 16. Save Our Everglades Trust Fund.

"(a) There is established the Save Our Everglades Trust Fund (Trust).<sup>1</sup> The sole purpose of the Trust is to expend funds to recreate the historical ecological functions of the Everglades Ecosystem by restoring water quality, quantity, timing and distribution (including pollution clean up and control, exotic species removal and control, land acquisition, restoration and management, construction and operation of water storage and delivery systems, research and monitoring).

"(b) The Trust shall be administered by five Trustees. Trustees shall be appointed by the governor, subject to confirmation by the Senate, within thirty days of a vacancy. Trustees' appointments shall be for five years; *provided that* the terms of the first Trustees appointed may be less than five years so that each

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<sup>1</sup>Creation of trust funds is limited by Art. III, § 19 (f), Fla. Const. However, section 19 (f)(3) exempts any limitations on "other trust funds authorized by this Constitution." Consequently, the Everglades Fund would not be affected by section 19's limitations if the SOE Initiative passes.

Trustee's term will end in a different year.<sup>2</sup> Trustees shall be residents of Florida with experience in environmental protection, but Trustees shall not hold elected governmental office during service as a Trustee. Trustees may adopt their own operating rules and regulations, subject to generally-applicable law. Disputes arising under this Section shall be first brought to a hearing before the Trustees, and thereafter according to generally-applicable law. Trustees shall serve without compensation but may be reimbursed for expenses.

"(c) The Trust shall be funded by revenues which shall be collected by the State and deposited into the Trust,<sup>3</sup> all of which funds shall be appropriated by the Legislature to the Trustees to be expended solely for the purpose of the Trust. Revenues collected by the State shall come from a fee on raw sugar from sugarcane grown within the Everglades Ecosystem. The fee shall be assessed against each first processor of sugarcane at a rate of \$.01 per pound of raw sugar, increased annually by any inflation measured by the Consumer Price Index for all urban consumers (U.S. City Average, All Items), or successor reports of the United States Department of Labor, Bureau of Labor Statistics or its successor, and shall expire twenty-five years after the effective date of this Section.<sup>4</sup>

"(d) For purposes of this Section, the Everglades Ecosystem is defined as Lake Okeechobee, the historical Everglades watershed west, south and east of Lake Okeechobee, Florida Bay and the Florida Coral Reef, *provided that* the Trustees may refine this definition.

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<sup>2</sup>Art. IV, § 9 of the Florida Constitution provides for the Game and Fresh Water Fish Commission. That section, and Florida Statute § 372.01 both provide that the commission be composed of five members appointed by the Governor, subject to confirmation by the Senate, who serve for staggered terms of five years.

<sup>3</sup>See Art. X, § 15, Fla. Const. State operated lotteries.-

(c) This amendment shall be implemented as follows:

(1) Schedule-On the effective date of this amendment, the lotteries shall be known as the Florida Education Lotteries. Net proceeds derived from the lotteries shall be deposited to a state trust fund, to be designated The State Education Lotteries Trust Fund, to be appropriated by the Legislature. The schedule may be amended by general law.

<sup>4</sup>Art. III, § 19, Fla. Const., using "Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, or successor reports as reported by the United States Department of Labor, Bureau of Labor Statistics or its successor."

"(e) Implementing legislation is not required for this Section, but nothing shall prohibit the establishment by law or otherwise of other measures designed to protect or restore the Everglades. If any portion of this Section is held invalid for any reason, the remaining portion of this Section shall be severed from the void portion and given the fullest possible force and application. This Section shall take effect on the day after approval by the electors."

Appendix II. Language in Other Selected Initiatives

1. Floridians Against Casino Takeover v. Let's Help Florida, 363 So. 2d 337 (Fla. 1978):

Art. X, § 15, Fla. Const. is created to read:

Casino Gambling: The operation of state regulated privately owned gambling casinos is hereby authorized only within the following limited area:

The area of Dade and Broward Counties, Florida, bounded on the East by the Atlantic Ocean; on the West by the centerline of State Road A1A as designated on March 1, 1978 to the centerline of 5th Street (U.S. #41) and also bounded on the West by the centerline of Collins Avenue from its intersection with 5th Street Southerly to Biscayne Street and the Southerly prolongation of the centerline of Collins Avenue to an intersection with the centerline of Government Cut; bounded on the South by the centerline of Government Cut; and bounded on the North by the North line of Lot 1, Block 14, Beverly Beach, according to the Plat thereof recorded in Plat Book 22, Page 13, Broward County Records.

Taxes upon the operation of gambling casinos shall be collected by the State and appropriated to the several counties, school districts and municipalities for the support and maintenance of the free public schools and local law enforcement.

2. Fine v. Firestone, 448 So. 2d 984 (Fla. 1984):

The following new section is added to Article VII of the Florida Constitution:

CITIZENS' CHOICE ON GOVERNMENT REVENUE:

(a) Revenue received by the state and by each taxing unit for each fiscal period shall be limited to the revenue limit for the preceeding [sic] fiscal period plus the annual adjustment and any ad valorem taxes on improvements due to new construction subject to assessment for the first time.

(b) For purposes of this section:

(1) revenue includes ad valorem taxes, other taxes and all other receipts, but excludes receipts from the United States government and its instrumentalities, bonds issued, loans received and the cost of investments sold. Receipts of agencies and instrumentalities and proprietary and trust funds shall be included in the revenue of the state or other taxing unit as appropriate.

(2) the annual adjustment for each fiscal period shall be the revenue limit of the preceeding [sic] fiscal period times two-thirds of the percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, 1967 = 100, or successor reports, for the preceeding [sic] calendar year, as initially reported by the United States Department of Labor, Bureau

of Labor Statistics; however for ad valorem taxes no annual adjustment increase shall exceed five percent of the ad valorem taxes of the preceeding [sic] fiscal period.

(3) each fiscal period shall be twelve months[.]

(4) the initial revenue limit, for the first fiscal period beginning after the effective date of this section, shall be calculated by using the revenue in the fiscal period beginning in 1980, plus subsequent changes due to annual adjustments and ad valorem taxes on new construction, as if this section had been in effect.

(c) Revenue collected in excess of a revenue limit shall be placed in escrow until the following fiscal period, in which period it shall be deemed revenue received, and applicable rates shall be reduced in an amount reasonably calculated to comply with the revenue limits of this section.

(d) When authorized by vote of the electors of a taxing jurisdiction:

(1) revenue limits may be exceeded for specified purposes and amounts, for not longer than two fiscal periods;

(2) revenue limits may be exceeded to provide for principal and interest payments on designated bonds for specified purposes.

(3) a taxing unit may use its first fiscal period, in lieu of one beginning in 1980, for determining initial revenue limits.

(e) Revenue limits may be exceeded to the extent necessary to avoid impairment of obligations of contracts and bonds existing on the effective date of this section.

(f) Any taxpayer of the state shall have standing to bring suit to enforce this section and, if successful, shall recover costs and attorney fees from the taxing jurisdiction.

3. Carroll v. Firestone, 497 So. 2d 1204 (Fla. 1986):

The proposed amendment reads as follows:

(a) Lotteries may be operated by the State.

(b) If any subsections of the Amendment of the Florida Constitution are held unconstitutional for containing more than one subject, this Amendment shall be limited to subsection (a) above.

(c) This Amendment shall be implemented as follows:

(1) On the effective date of this Amendment, the lotteries shall be known as the Florida Education Lotteries. Net proceeds derived from the lotteries shall be deposited to a state trust fund, to be designated The State Education Lotteries Trust Fund, to be appropriated by the Legislature. The schedule may be amended by general law.

Appendix III. Appropriations Provisions for the Game and Fresh  
Water Fish Commission. 1993 Fla. Laws ch. 93-184

SECTION 1A

SPECIFIC APPROPRIATION

distribution of funds in Specific Appropriation 479, require the recipient to release the State and its agencies absolutely from liability as to damage to real and personal property caused by the past application or used by the State or its agencies of EDB or the installation, maintenance, and disposal by the State or its agencies of filter systems.

480	SPECIAL CATEGORIES GRANTS AND AIDS - PETROLEUM SITE CLEANUP FROM INLAND PROTECTION TRUST FUND . . . . .	1,350,000
481	SPECIAL CATEGORIES RESEARCH, DEVELOPMENT AND TECHNICAL ASSISTANCE - WASTE TIRE ABATEMENT PROGRAM FROM SOLID WASTE MANAGEMENT TRUST FUND . . . . .	7,975,000

From funds in Specific Appropriation 481, the sum of \$2,000,000 shall be made available by the Department of Environmental Regulation on a 50%/50% match basis with private industry. Utilizing these funds, the department shall request requests for proposals for waste tire collection and processing to provide for and meet the requirements of the Solid Waste Management Act and the legislative requirement of the Department of Transportation to utilize waste tire rubber in highway construction.

483	DATA PROCESSING SERVICES ADMINISTRATIVE MANAGEMENT INFORMATION CENTER - DEPARTMENT OF MANAGEMENT SERVICES FROM GENERAL REVENUE FUND . . . . .	152,275	
	FROM AIR POLLUTION CONTROL TRUST FUND . . . . .		270,872
	FROM INLAND PROTECTION TRUST FUND . . . . .		323,265
	FROM OPERATING TRUST FUND . . . . .		41,741
	FROM WATER QUALITY ASSURANCE TRUST FUND . . . . .		864,170
484	DATA PROCESSING SERVICES OTHER DATA PROCESSING SERVICES FROM AIR POLLUTION CONTROL TRUST FUND . . . . .		100,000
	FROM INLAND PROTECTION TRUST FUND . . . . .		111,700
485	DATA PROCESSING SERVICES REGIONAL DATA CENTERS - STATE UNIVERSITY SYSTEM FROM AIR POLLUTION CONTROL TRUST FUND . . . . .		5,000
	FROM OPERATING TRUST FUND . . . . .		50,000

GAME AND FRESH WATER FISH COMMISSION, FLORIDA

OFFICE OF THE EXECUTIVE DIRECTOR AND DIVISION OF ADMINISTRATIVE SERVICES

486	SALARIES AND BENEFITS . . . . . POSITIONS	152	
	FROM GENERAL REVENUE FUND . . . . .	749,724	
	FROM NON-GAME WILDLIFE TRUST FUND . . . . .		508,390
	FROM STATE GAME TRUST FUND . . . . .		3,933,797

SECTION 1A

SPECIFIC  
APPROPRIATION

487	OTHER PERSONAL SERVICES		
	FROM GENERAL REVENUE FUND . . . . .	1,500	
	FROM FISH AND WILDLIFE HABITAT TRUST FUND . . . . .		5,000
	FROM STATE GAME TRUST FUND . . . . .		301,843
488	EXPENSES		
	FROM GENERAL REVENUE FUND . . . . .	6,100	
	FROM FISH AND WILDLIFE HABITAT TRUST FUND . . . . .		10,000
	FROM NON-GAME WILDLIFE TRUST FUND . . . . .		405,708
	FROM STATE GAME TRUST FUND . . . . .		2,102,908
489	OPERATING CAPITAL OUTLAY		
	FROM GENERAL REVENUE FUND . . . . .	31,762	
	FROM NON-GAME WILDLIFE TRUST FUND . . . . .		81,164
	FROM STATE GAME TRUST FUND . . . . .		48,718
490	SPECIAL CATEGORIES		
	PAYMENT OF REWARDS		
	FROM ENDANGERED AND THREATENED SPECIES REWARD TRUST FUND . . . . .		5,000
491	DATA PROCESSING SERVICES		
	ADMINISTRATIVE MANAGEMENT INFORMATION CENTER - DEPARTMENT OF MANAGEMENT SERVICES		
	FROM STATE GAME TRUST FUND . . . . .		46,361
LAW ENFORCEMENT, DIVISION OF			
492	SALARIES AND BENEFITS		
	POSITIONS	432	
	FROM GENERAL REVENUE FUND . . . . .	16,548,503	
	FROM STATE GAME TRUST FUND . . . . .		1,813,384
493	OTHER PERSONAL SERVICES		
	FROM GENERAL REVENUE FUND . . . . .	15,451	
	FROM STATE GAME TRUST FUND . . . . .		35,000
494	EXPENSES		
	FROM GENERAL REVENUE FUND . . . . .	352,602	
	FROM STATE GAME TRUST FUND . . . . .		1,001,856
494A	OPERATING CAPITAL OUTLAY		
	FROM GENERAL REVENUE FUND . . . . .	19,628	
494B	SPECIAL CATEGORIES		
	ACQUISITION AND REPLACEMENT OF PATROL VEHICLES		
	FROM GENERAL REVENUE FUND . . . . .	139,652	
	FROM STATE GAME TRUST FUND . . . . .		432,917
495	SPECIAL CATEGORIES		
	OPERATION AND MAINTENANCE OF PATROL VEHICLES		
	FROM GENERAL REVENUE FUND . . . . .	6,525	
	FROM STATE GAME TRUST FUND . . . . .		1,492,600



SECTION 1A.

SPECIFIC  
APPROPRIATION

496	SPECIAL CATEGORIES		
	SALARY INCENTIVE PAYMENTS		
	FROM GENERAL REVENUE FUND . . . . .	241,866	
	FROM STATE GAME TRUST FUND . . . . .		73,620
WILDLIFE, DIVISION OF			
497	SALARIES AND BENEFITS	POSITIONS	175
	FROM NON-GAME WILDLIFE TRUST FUND . . . . .		1,314,173
	FROM STATE GAME TRUST FUND . . . . .		4,718,493
498	OTHER PERSONAL SERVICES		
	FROM FLORIDA PANTHER RESEARCH AND MANAGEMENT TRUST FUND . . . . .		25,000
	FROM GRANTS AND DONATIONS TRUST FUND . . . . .		300,000
	FROM NON-GAME WILDLIFE TRUST FUND . . . . .		1,031,813
	FROM STATE GAME TRUST FUND . . . . .		623,025
499	EXPENSES		
	FROM FLORIDA PANTHER RESEARCH AND MANAGEMENT TRUST FUND . . . . .		83,125
	FROM GRANTS AND DONATIONS TRUST FUND . . . . .		125,000
	FROM NON-GAME WILDLIFE TRUST FUND . . . . .		799,928
	FROM STATE GAME TRUST FUND . . . . .		2,114,500
500	OPERATING CAPITAL OUTLAY		
	FROM FLORIDA PANTHER RESEARCH AND MANAGEMENT TRUST FUND . . . . .		15,000
	FROM GRANTS AND DONATIONS TRUST FUND . . . . .		75,000
	FROM NON-GAME WILDLIFE TRUST FUND . . . . .		103,569
	FROM STATE GAME TRUST FUND . . . . .		160,246
501	SPECIAL CATEGORIES		
	ENHANCED WILDLIFE MANAGEMENT		
	FROM STATE GAME TRUST FUND . . . . .		343,049
502	SPECIAL CATEGORIES		
	MANAGEMENT AREA LEASE PAYMENTS		
	FROM LAND ACQUISITION TRUST FUND . . . . .		1,100,000
504	SPECIAL CATEGORIES		
	PROVISION OF CONTRACTED SERVICES		
	FROM GRANTS AND DONATIONS TRUST FUND . . . . .		250,000
504A	SPECIAL CATEGORIES		
	RHESUS MONKEY STUDY		
	FROM NON-GAME WILDLIFE TRUST FUND . . . . .		50,000

From funds provided in Specific Appropriation 504A, the Game and Fresh Water Fish Commission shall conduct a study of options available to deal with the control of rhesus monkeys located within a ten mile radius of the convergence of the Oklawaha and Silver Rivers. The options studied shall include, but not be limited to: 1) developing a management plan to allow the monkeys to remain in their present

SECTION 1A

SPECIFIC APPROPRIATION

510 SPECIAL CATEGORIES  
PROVISION OF CONTRACTED SERVICES  
FROM GRANTS AND DONATIONS TRUST FUND . . . 2,050,000

GOVERNOR, EXECUTIVE OFFICE OF THE  
GENERAL OFFICE

511 LUMP SUM  
EXECUTIVE OFFICE OF THE GOVERNOR -  
EXECUTIVE/ADMINISTRATION

	POSITIONS	126	
FROM GENERAL REVENUE FUND . . . . .		6,622,230	
FROM FLORIDA INTERNATIONAL TRADE AND PROMOTION TRUST FUND . . . . .			519,776
FROM GRANTS AND DONATIONS TRUST FUND . . .			712,443

From funds provided in Specific Appropriation 511, the Florida International Affairs Commission shall undertake a study and recommend to the Legislature by February 1, 1994, the feasibility of locating and staffing a Florida office in Israel, according to its established criteria for the evaluation of such foreign offices.

512 LUMP SUM  
EXECUTIVE OFFICE OF THE GOVERNOR - OFFICE  
OF PLANNING AND BUDGETING

	POSITIONS	97	
FROM GENERAL REVENUE FUND . . . . .		4,865,365	
FROM GRANTS AND DONATIONS TRUST FUND . . .			332,808

513 LUMP SUM  
EXECUTIVE OFFICE OF THE GOVERNOR -  
WASHINGTON OFFICE

	POSITIONS	5	
FROM GENERAL REVENUE FUND . . . . .		355,248	

514 LUMP SUM  
EXECUTIVE OFFICE OF THE GOVERNOR - AFRICAN  
AMERICAN COUNCIL

	POSITIONS	2	
FROM GENERAL REVENUE FUND . . . . .		90,000	

515 LUMP SUM  
EXECUTIVE OFFICE OF THE GOVERNOR -  
HISPANIC AFFAIRS COMMISSION

	POSITIONS	2	
FROM GENERAL REVENUE FUND . . . . .		106,203	

516 LUMP SUM  
LEGISLATIVE APPROPRIATION SYSTEM/PLANNING  
AND BUDGETING SUBSYSTEM

	POSITIONS	28	
FROM PLANNING AND BUDGETING SYSTEM TRUST FUND . . . . .			1,791,959

Appendix IV. Ballot Initiative Form

# SAVE OUR EVERGLADES

**TITLE: SAVE OUR EVERGLADES**

**SUMMARY:**

**Creates the Save Our Everglades Trust to restore the Everglades for future generations. Directs the sugarcane industry, which polluted the Everglades, to help pay to clean up pollution and restore clean water supply. Funds the Trust for twenty-five years with a fee on raw sugar from sugarcane grown in the Everglades Ecosystem of one cent per pound, indexed for inflation. Florida citizen trustees will control the Trust.**

I am a registered voter of Florida and hereby petition the Secretary of State to place the following amendment to the Florida Constitution on the ballot in the general election.

Name \_\_\_\_\_

(Please print information as it appears on voter records)

Street Address \_\_\_\_\_

City \_\_\_\_\_ Zip \_\_\_\_\_

Precinct \_\_\_\_\_ Congressional District \_\_\_\_\_

County \_\_\_\_\_ Date Signed \_\_\_\_\_



Sign as Registered

FULL TEXT OF PROPOSED AMENDMENT:

(a) The people of Florida believe that protecting the Everglades Ecosystem helps assure clean water and a healthy economy for future generations. The sugarcane industry in the Everglades Ecosystem has profited while damaging the Everglades with pollution and by altering water supply. Therefore, the sugarcane industry should help pay to clean up the pollution and to restore clean water. To that end, the people hereby establish a Trust, controlled by Florida citizens, dedicated to restoring the Everglades Ecosystem, and funded initially by a fee on raw sugar from sugarcane grown in the Everglades Ecosystem.

(b) Article X, Florida Constitution, is hereby amended to add the following:

"Section 16. Save Our Everglades Trust Fund.

"(a) There is established the Save Our Everglades Trust Fund (Trust). The sole purpose of the Trust is to expend funds to recreate the historical ecological functions of the Everglades Ecosystem by restoring water quality, quantity, timing and distribution (including pollution clean up and control, exotic species removal and control, land acquisition, restoration and management, construction and operation of water storage and delivery systems, research and monitoring).

"(b) The Trust shall be administered by five Trustees. Trustees shall be appointed by the governor, subject to confirmation by the Senate, within thirty days of a vacancy. Trustees' appointments shall be for five years; provided that the terms of the first Trustees appointed may be less than five years so that each Trustee's term will end during a different year. Trustees shall be residents of Florida with experience in environmental protection, but Trustees shall not hold elected governmental office during service as a Trustee. Trustees may adopt their own operating rules and regulations, subject to generally-applicable law. Disputes arising under this Section

shall be first brought to a hearing before the Trustees, and thereafter according to generally-applicable law. Trustees shall serve without compensation but may be reimbursed for expenses.

"(c) The Trust shall be funded by revenues which shall be collected by the State and deposited into the Trust, all of which funds shall be appropriated by the Legislature to the Trustees to be expended solely for the purpose of the Trust. Revenues collected by the State shall come from a fee on raw sugar from sugarcane grown within the Everglades Ecosystem. The fee shall be assessed against each first processor of sugarcane at a rate of \$.01 per pound of raw sugar, increased annually by any inflation measured by the Consumer Price Index for all urban consumers (U.S. City Average, All Items), or successor reports of the United States Department of Labor, Bureau of Labor Statistics or its successor, and shall expire twenty-five years after the effective date of this Section.

"(d) For purposes of this Section, the Everglades Ecosystem is defined as Lake Okeechobee, the historical Everglades watershed west, south and east of Lake Okeechobee, Florida Bay and the Florida Keys Coral Reef, provided that the Trustees may refine this definition.

"(e) Implementing legislation is not required for this Section, but nothing shall prohibit the establishment by law or otherwise of other measures designed to protect or restore the Everglades. If any portion of this Section is held invalid for any reason, the remaining portion of this Section shall be severed from the void portion and given the fullest possible force and application. This Section shall take effect on the day after approval by the electors."

104.185 — It is unlawful for any person to knowingly sign a petition or petitions for a particular issue or candidate more than one time. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor of the first degree, punishable as provided in s.775.082, s.775.083, s.775.084

# SAVE OUR EVERGLADES

**Q. WHY SHOULD I SIGN THIS PETITION?**

A. Every Floridian should have the opportunity to vote to make the polluter pay. By signing this petition you will put it on the ballot for November of 1994. Give the people the right to make the decision by signing this petition!

**Q. WHAT IS THE PROBLEM WITH THE EVERGLADES?**

A. Pollution from sugarcane fields and water pumped into the ocean is causing the death of the Everglades as we have known it. Florida Bay is in critical condition and the coral reefs in the Keys are threatened.

**Q. WHAT CAN BE DONE TO SAVE THE EVERGLADES?**

A. The polluters can be made to obey the law. Most importantly, we need to reduce the worst pollutant from the sugarcane fields and restore the flow of clean water into the Everglades.

**Q. WHY HASN'T THE PROBLEM BEEN FIXED BEFORE NOW?**

A. Until now we have had to rely on either the government or the sugar industry to clean up the problem. The government clearly has not had the will to do the right thing. And the sugar industry which has caused the pollution doesn't want to spend the money to clean it up.

**Q. WHAT DOES THIS CONSTITUTIONAL AMENDMENT ACCOMPLISH?**

A. It will provide the funding for a comprehensive plan to fix the Everglades. It charges a fee of one cent (\$.01) per pound of raw sugar produced in Florida to be deposited into a trust fund which will pay to fix the damage sugar has done to the Everglades. After 25 years the fee will be abolished.

**Q. IS THIS ENOUGH MONEY TO DO THE JOB?**

A. This proposal will provide the fair amount that the sugar industry should have to pay, no more, no less.

**Q. IS THERE AN ALTERNATIVE WAY OF PAYING TO CLEAN UP THE EVERGLADES?**

A. Yes. The taxpayer can shoulder the cost and let the polluter off without paying their fair share of the cost. That is what will happen if this constitutional amendment does not pass.

**Q. IF WE DON'T FIX THE EVERGLADES, WHAT WILL HAPPEN?**

A. We will lose the finest wetland in America, perhaps the world. But the health of the Everglades also affects rivers, estuaries and Florida Bay. We stand to lose countless jobs in the tourist industry, the commercial fishing industry and the sport fishing industry in South Florida including the Keys. South Florida's water supply will be endangered threatening tens of thousands of jobs and reducing tax revenues which will cause taxes to rise throughout Florida. Fish and wildlife will be harmed. The potential effects are devastating economically and environmentally.

**Q. WHO IS GOING TO CONTROL THE SPENDING OF THIS MONEY?**

A. A panel of respected Florida citizens will be appointed who will oversee the restoration of the Everglades.

**CERTIFICATE OF SERVICE**

I hereby certify that, as required by 16.061(2), Florida Statutes, true copies of the foregoing petition on the citizens' initiative to amend the Florida Constitution, entitled "Save Our Everglades," have been furnished by Federal Express to the Honorable Jim Smith, Secretary of State, The Capitol PL02, Tallahassee, Florida 32399-0250; and to the Honorable Robert A. Butterworth Attorney General, The Capitol, Tallahassee, Florida 32399-0250.

A handwritten signature in black ink, appearing to read 'F. Baldwin, Jr.', with a long horizontal line extending to the right.

Fletcher N. Baldwin, Jr.