

CHAMBER ACTION

1 The Fiscal Council recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

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6 A bill to be entitled
7 An act providing an appropriation to compensate Wilton
8 Dedge; providing authority to draw warrant; providing a
9 limitation on the authority to draw the warrant; requiring
10 the execution of a specified assignment; providing for
11 waiver of specified tuition and fees; providing conditions
12 for payment; providing legislative intent; providing an
13 effective date.

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15 WHEREAS, Wilton Dedge was convicted of rape and imprisoned
16 for 22 years, and

17 WHEREAS, the initial conviction was appealed and reversed,
18 and

19 WHEREAS, on retrial Wilton Dedge was again convicted, which
20 conviction was affirmed on appeal, and

21 WHEREAS, the Circuit Court in the Eighteenth Judicial
22 Circuit granted the state's motion to dismiss pending charges

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23 | and discharge Wilton Dedge from custody based on DNA evidence
24 | that excluded Wilton Dedge as the perpetrator of the crime, and

25 | WHEREAS, Wilton Dedge was in fact released on August 12,
26 | 2004, and

27 | WHEREAS, Wilton Dedge and his parents filed suit in the
28 | Second Judicial Circuit requesting, among other things, a
29 | declaratory judgment that Mr. Dedge's liberty was taken by the
30 | government without compensation and requesting damages for the
31 | taking of Mr. Dedge's liberty, and

32 | WHEREAS, the suit was dismissed by order of the Second
33 | Judicial Circuit court, which found that claims for damages from
34 | the state are banned by the doctrine of sovereign immunity and
35 | that only the Legislature can address the issue of compensation
36 | under existing law, and

37 | WHEREAS, Wilton Dedge has appealed the order to the First
38 | District Court of Appeal, Case No. 1D05-4288, and

39 | WHEREAS, the Legislature recognizes that no system of
40 | justice is impervious to human error. "Given the myriad
41 | safeguards provided to assure a fair trial, and taking into
42 | account the reality of the human fallibility of the
43 | participants, there can be no such thing as an error-free,
44 | perfect trial, and ... the Constitution does not guarantee such
45 | a trial." United States v. Hasting, 461 U.S. 499(1983), and

46 | WHEREAS, the Legislature acknowledges that the state's
47 | system of justice yielded an imperfect result with tragic
48 | consequences in this case, and

49 | WHEREAS, the Legislature acknowledges that Wilton Dedge
50 | incurred significant damages unique to Wilton Dedge as a result

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51 | of his conviction and physical confinement and that all the
 52 | damages flowed from the fact that he was physically restrained
 53 | and prevented from exercising the freedom to which all innocent
 54 | citizens are entitled, and

55 | WHEREAS, the Legislature acknowledges that Wilton Dedge
 56 | performed valuable services for the state while imprisoned,
 57 | including serving as a licensed wastewater plant operator, and

58 | WHEREAS, the Legislature acknowledges that Wilton Dedge's
 59 | parents incurred significant expenses related to his defense and
 60 | related to the prolonged efforts to establish his innocence and
 61 | secure his release from prison, and

62 | WHEREAS, the Legislature is providing compensation to
 63 | Wilton Dedge to acknowledge the fact that he suffered
 64 | significant damages unique to Wilton Dedge which resulted from
 65 | his physical restraint and the deprivation of freedom, and

66 | WHEREAS, the Legislature is providing compensation to
 67 | Wilton Dedge based on a moral desire to acknowledge his
 68 | undisputed and actual innocence and not on a recognition of a
 69 | constitutional right or violation, and

70 | WHEREAS, the Legislature intends that compensation made
 71 | pursuant to this act shall be the sole compensation to be
 72 | provided by the state for any and all present and future claims
 73 | arising out of the factual situation in connection with Wilton
 74 | Dedge's conviction and imprisonment, and

75 | WHEREAS, the Legislature apologizes to Wilton Dedge on
 76 | behalf of the state, NOW, THEREFORE,

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 78 | Be It Enacted by the Legislature of the State of Florida:

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Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. There is appropriated from the General Revenue Fund the sum of \$2,000,000 to the Department of Financial Services under the conditions provided in this act.

Section 3. The Chief Financial Officer is directed to draw a warrant to the Department of Financial Services in the sum of \$2,000,000 for the purposes provided in this act. After March 6, 2006, the Chief Financial Officer is no longer authorized to draw a warrant under this section.

Section 4. On behalf of the State of Florida, the Department of Financial Services is authorized to execute a qualified assignment within the meaning of s. 130(c) of the Internal Revenue Code, with an assignee acceptable to Wilton Dedge. The Department of Financial Services is authorized to execute all necessary agreements to implement this act.

Section 5. Tuition and fees shall be waived for up to a total of 120 hours of instruction at any career center established pursuant to s. 1001.44, Florida Statutes, at any community college established under part III of chapter 1004, Florida Statutes, or any state university. For any educational benefit made, Wilton Dedge is required to meet and maintain the regular admission requirements of, and be registered at, such career center, community college, or state university and make satisfactory academic progress as defined by the educational institution in which the claimant is enrolled.

106 Section 6. The Chief Financial Officer shall execute the
 107 qualified assignment agreement as required by this act upon
 108 delivery by Wilton Dedge to the Chief Financial Officer, the
 109 Department of Financial Services, the President of the Senate,
 110 and the Speaker of the House of Representatives of all of the
 111 following:

112 (1) An executed release and waiver on behalf of Wilton
 113 Dedge and his parents, heirs, successors, and assigns forever
 114 releasing the State of Florida and any agency, instrumentality,
 115 officer, employee, or political subdivision thereof or any other
 116 entity subject to the provisions of s. 768.28, Florida Statutes,
 117 from any and all present or future claims or declaratory relief
 118 the claimant or any of his parents, heirs, successors, or
 119 assigns may have against such enumerated entities and arising
 120 out of the factual situation in connection with the conviction
 121 for which compensation is awarded. However, declaratory action
 122 to obtain judicial expungement of Wilton Dedge's judicial and
 123 executive branch records as otherwise provided by law is not
 124 prohibited by this act.

125 (2) An order from the court having jurisdiction of the
 126 legal claim filed by Wilton Dedge and his parents dismissing the
 127 claim with prejudice.

128 Section 7. The Legislature shall not be deemed by this act
 129 to have waived any defense of sovereign immunity or to have
 130 increased the limits of liability on behalf of the state or any
 131 person or entity subject to the provisions of s. 768.28, Florida
 132 Statutes, or any other law.

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133 Section 8. This award is intended to provide the sole
134 compensation for any and all present and future claims arising
135 out of the factual situation in connection with Wilton Dedge's
136 conviction and imprisonment. No further award for attorney's
137 fees, lobbying fees, costs, or other similar expenses will be
138 made by the state.

139 Section 9. This act shall take effect upon becoming a law.