

1 A bill to be entitled

2 An act providing for the relief of Clemente Aguirre-  
3 Jarquin; providing an appropriation to compensate  
4 Clemente Aguirre-Jarquin for being wrongfully  
5 incarcerated for nearly 15 years; directing the Chief  
6 Financial Officer to draw a warrant for the purchase  
7 of an annuity; requiring the Department of Financial  
8 Services to pay specified funds; providing for the  
9 waiver of certain tuition and fees for Mr. Aguirre-  
10 Jarquin; specifying conditions for payment; providing  
11 that the act does not waive certain defenses or  
12 increase the state's limits of liability; providing a  
13 limitation on the payment of compensation; prohibiting  
14 any further award to include certain fees and costs;  
15 providing an effective date.

16  
17 WHEREAS, Clemente Aguirre-Jarquin was arrested on June 17,  
18 2004, tried, and convicted of two counts of first-degree murder  
19 and one count of burglary with an assault or battery on February  
20 28, 2006, and sentenced to death on June 30, 2006, and

21 WHEREAS, Clemente Aguirre-Jarquin has always maintained his  
22 innocence, and

23 WHEREAS, Clemente Aguirre-Jarquin spent 10 years and 8  
24 months on death row, and

25 WHEREAS, new DNA, forensic, and testimonial evidence

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26 | discovered after his 2006 conviction and death sentence  
27 | powerfully show Clemente Aguirre-Jarquin's innocence and point  
28 | to another suspect whose DNA was found at the crime scene and  
29 | who has confessed to these crimes on multiple occasions, and

30 |       WHEREAS, in October of 2016, based on that new evidence,  
31 | the Florida Supreme Court unanimously reversed an order from the  
32 | Circuit Court for the 18th Judicial Circuit that had denied  
33 | Clemente Aguirre-Jarquin's motion for a new trial based on the  
34 | new evidence, and

35 |       WHEREAS, the Florida Supreme Court vacated Clemente  
36 | Aguirre-Jarquin's convictions and death sentence, and remanded  
37 | the case to the Circuit Court for the 18th Judicial Circuit for  
38 | a new trial, and

39 |       WHEREAS, Clemente Aguirre-Jarquin then spent another 2  
40 | years incarcerated while the State Attorney's Office continued  
41 | to press charges after the remand to the Circuit Court for the  
42 | 18th Judicial Circuit, during which the state provided no  
43 | opportunity for Clemente Aguirre-Jarquin to be released on bail  
44 | pending trial, and

45 |       WHEREAS, on November 5, 2018, with jury selection still in  
46 | progress before the new trial and after the presentation of  
47 | pretrial testimony by witnesses whom the state intended to call  
48 | at trial and who supported the defense's position that the  
49 | suspect whose DNA was found at the crime scene was the person  
50 | solely responsible for the murders in question, the state orally

51 pronounced a nolle prosequi as related to the retrial of  
52 Clemente Aguirre-Jarquin, and

53 WHEREAS, Clemente Aguirre-Jarquin was first released from  
54 the state's custody on November 5, 2018, after spending 14  
55 years, 4 months, and 19 days, or 5,255 total days, between June  
56 17, 2004, and November 5, 2018, without interruption, in the  
57 state's custody, and

58 WHEREAS, there is no credible evidence of Clemente Aguirre-  
59 Jarquin's guilt, and likewise, there is clear and convincing  
60 evidence of Clemente Aguirre-Jarquin's innocence, and

61 WHEREAS, within 90 days of first being released from  
62 custody, Clemente Aguirre-Jarquin filed a petition to determine  
63 his eligibility for compensation under chapter 961, Florida  
64 Statutes, but the Circuit Court for the 18th Judicial Circuit  
65 ruled that the petition was untimely because it was not filed 2  
66 years earlier, or within 90 days of the Florida Supreme Court's  
67 decision vacating his convictions and remanding the case to the  
68 circuit court for a new trial, even though Clemente Aguirre-  
69 Jarquin was never released from incarceration following the  
70 Florida Supreme Court's mandate, and

71 WHEREAS, the Legislature acknowledges that the state's  
72 system of justice yielded an imperfect result that had tragic  
73 consequences in Clemente Aguirre-Jarquin's case, and

74 WHEREAS, the Legislature acknowledges that, as a result of  
75 his continuous physical confinement, Clemente Aguirre-Jarquin

76 | suffered significant physical, mental, and emotional damages  
 77 | that are unique to Clemente Aguirre-Jarquin and such damages are  
 78 | due to the fact that he was physically restrained, often in  
 79 | solitary confinement, and prevented from exercising the freedom  
 80 | to which all innocent citizens are entitled, and

81 |         WHEREAS, the Legislature is providing compensation to  
 82 | Clemente Aguirre-Jarquin to acknowledge the fact that he  
 83 | suffered significant damages that are unique to Clemente  
 84 | Aguirre-Jarquin, and

85 |         WHEREAS, the Legislature apologizes to Clemente Aguirre-  
 86 | Jarquin on behalf of the state, NOW, THEREFORE,

87 |

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

89 |

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

92 |         Section 2. The sum of \$720,000 is appropriated from the  
 93 | General Revenue Fund to the Department of Financial Services  
 94 | under the conditions provided in this act.

95 |         Section 3. The Chief Financial Officer is directed to draw  
 96 | a warrant in the sum specified in section 2 for the purposes  
 97 | provided in this act.

98 |         Section 4. The Department of Financial Services shall pay  
 99 | the funds appropriated under this act to an insurance company or  
 100 | other financial institution admitted and authorized to issue

101 annuity contracts in this state and selected by Clemente  
102 Aguirre-Jarquin to purchase an annuity. The Chief Financial  
103 Officer shall execute all necessary agreements to implement this  
104 act and to maximize the benefit to Clemente Aguirre-Jarquin.

105 Section 5. Tuition and fees for Clemente Aguirre-Jarquin  
106 shall be waived for up to a total of 120 hours of instruction at  
107 any career center established pursuant to s. 1001.44, Florida  
108 Statutes, Florida College System institution established under  
109 part III of chapter 1004, Florida Statutes, or state university.  
110 For any educational benefit made, Clemente Aguirre-Jarquin must  
111 meet and maintain the regular admission requirements of, and be  
112 registered at, such career center, institution, or state  
113 university and make satisfactory academic progress as defined by  
114 the educational institution in which he is enrolled.

115 Section 6. The Chief Financial Officer shall purchase the  
116 annuity as required by this act within 20 days of delivery by  
117 Clemente Aguirre-Jarquin of his election of annuity, as set  
118 forth in section 4.

119 Section 7. The Legislature does not waive any defense of  
120 sovereign immunity or increase the limits of liability on behalf  
121 of the state or any person or entity that is subject to s.  
122 768.28, Florida Statutes, or any other law.

123 Section 8. This award is intended to provide the sole  
124 compensation for any and all present and future claims arising  
125 out of the factual situation described in this act which

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126 | resulted in Clemente Aguirre-Jarquin's arrest, conviction, and  
127 | incarceration. There may not be any further award to include  
128 | attorney fees, lobbying fees, costs, or other similar expenses  
129 | to Clemente Aguirre-Jarquin by the state or any agency,  
130 | instrumentality, or political subdivision thereof, or any other  
131 | entity, including any county constitutional officer, officer, or  
132 | employee, in state or federal court.

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