

By Senator Storms

10-00024A-11

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1 A bill to be entitled

2 An act for the relief of Dennis Gay; providing an  
3 appropriation to compensate Dennis Gay for injuries  
4 sustained as a result of the negligence of the  
5 Department of Transportation; providing for the use of  
6 funds; providing for the reversion of funds to the  
7 state; providing a limitation on the total amount paid  
8 for attorney's fees, lobbying fees, costs, and other  
9 similar expenses relating to the claim; providing an  
10 effective date.

11  
12 WHEREAS, on February 2, 2005, at approximately 7 a.m.,  
13 Dennis Gay, a 60-year-old man, was a pedestrian in the crosswalk  
14 of Brorein Street in Tampa when he was struck by a Department of  
15 Transportation vehicle, and

16 WHEREAS, upon being struck by the vehicle, Dennis Gay was  
17 thrown approximately 27 feet and rendered unconscious, and

18 WHEREAS, Dennis Gay was taken by ambulance to Tampa General  
19 Hospital and was admitted to the hospital in critical condition,  
20 diagnosed as having a skull fracture, subarachnoid hemorrhage,  
21 subdural hematoma, intracerebral hemorrhage, and left  
22 hemiparesis, and

23 WHEREAS, the primary neurosurgeon attending to Dennis Gay  
24 induced a coma to try to control the swelling in Dennis Gay's  
25 brain, and

26 WHEREAS, Dennis Gay was objectively diagnosed by computer  
27 tomography imaging as having significant brain bleeding, which  
28 left him permanently brain-damaged and suffering from impaired  
29 cognitive functioning and loss of emotional control, and

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30 WHEREAS, the neuropsychologist hired by the Department of  
31 Transportation to examine Dennis Gay concurred in the finding of  
32 permanent brain damage, and

33 WHEREAS, upon discharge from the hospital several months  
34 later in April 2005, Dennis Gay exhibited goal-directed behavior  
35 only if cued, was able to relearn old skills such as activities  
36 of daily living, though memory loss interfered with new  
37 learning, had a beginning awareness of self and others, suffered  
38 cognitive difficulties and struggled with ambulation, and was  
39 unable to negotiate the entry stairs at his home, thus requiring  
40 ramp modifications to the premises, and

41 WHEREAS, Dennis Gay and his wife, Diana Gay, now deceased,  
42 filed a lawsuit against the Department of Transportation seeking  
43 compensation for injuries and damages sustained, and

44 WHEREAS, there is no dispute as to the liability of the  
45 Department of Transportation, and the department has submitted  
46 to a consent judgment in the amount of \$900,000, and

47 WHEREAS, the Department of Transportation has paid \$100,000  
48 to Dennis Gay and \$100,000 to Diana Gay, deceased, pursuant to  
49 the limits of liability set forth in s. 768.28, Florida  
50 Statutes, and payment of the remaining amount is conditioned  
51 upon the passage of a claim bill by the Legislature in the  
52 amount of \$700,000, of which \$500,000 is to be placed in a  
53 special needs trust created for the benefit of Dennis Gay and  
54 \$200,000 is to be paid to Dennis Gay for past monetary losses,  
55 NOW, THEREFORE,

56  
57 Be It Enacted by the Legislature of the State of Florida:  
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59        Section 1. The facts stated in the preamble to this act are  
60 found and declared to be true.

61        Section 2. There is appropriated from the General Revenue  
62 Fund to the Department of Transportation the sum of \$700,000 for  
63 the relief of Dennis Gay as compensation for injuries and  
64 damages sustained. Of the funds awarded under this section,  
65 \$500,000 shall be placed in a special needs trust created for  
66 the use and benefit of Dennis Gay and \$200,000 shall be paid to  
67 Dennis Gay as compensation for past monetary losses. Any funds  
68 remaining in the special needs trust upon the death of Dennis  
69 Gay shall revert to the General Revenue Fund of the State of  
70 Florida.

71        Section 3. The Chief Financial Officer is directed to draw  
72 a warrant in favor of Dennis Gay in the sum of \$700,000 upon  
73 funds in the State Treasury to the credit of the Department of  
74 Transportation, and the Chief Financial Officer is directed to  
75 pay the same out of such funds in the State Treasury not  
76 otherwise appropriated.

77        Section 4. Any amount paid by the Department of  
78 Transportation pursuant to the waiver of sovereign immunity  
79 permitted under s. 768.28, Florida Statutes, and the award under  
80 this act are intended to provide the sole compensation for all  
81 present and future claims arising out of the factual situation  
82 described in the preamble to this act which resulted in injuries  
83 and damages to Dennis Gay. The total amount paid for attorney's  
84 fees, lobbying fees, costs, trust administration, and other  
85 similar expenses relating to this claim may not exceed 25  
86 percent of the amount awarded under section 2 of this act.

87        Section 5. This act shall take effect upon becoming a law.