

By the Committee on Claims and Representative Sembler

1                                   A bill to be entitled  
2           An act for the relief of Elizabeth Schnell and  
3           Frederick Schnell; providing an appropriation  
4           to compensate them for injuries and damages  
5           sustained as a result of the negligence of the  
6           Department of Highway Safety and Motor  
7           Vehicles; providing for a reversion to the  
8           General Revenue Fund of the State of Florida  
9           under specified conditions; providing an  
10          effective date.

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12           WHEREAS, at 7:15 a.m. on January 25, 1997, Frederick  
13          Schnell was operating his motor vehicle, in which his wife  
14          Elizabeth Schnell was a passenger, westbound on State Road 60  
15          approximately 1 mile west of Interstate 95 in Indian River  
16          County, and

17           WHEREAS, Mr. Schnell was traveling at the posted speed  
18          limit of 55 miles per hour, and

19           WHEREAS, Trooper Wayne Titus was traveling eastbound on  
20          State Road 60 and, for unknown reasons, Trooper Titus abruptly  
21          changed lanes and collided head-on with the Schnell vehicle,  
22          and

23           WHEREAS, Trooper Titus was traveling approximately 71  
24          miles per hour at the point of impact, and

25           WHEREAS, the circuit court judge ruled as a matter of  
26          law that the Department of Highway Safety and Motor Vehicles  
27          was responsible for Mr. and Mrs. Schnell's injuries and  
28          damages, and

29           WHEREAS, Mr. Schnell suffered extensive physical  
30          injuries, and  
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1           WHEREAS, Mr. Schnell continued medical treatment for  
2 his physical injuries through April 21, 1997, then  
3 discontinued treatment because of the necessity to be with his  
4 wife, and

5           WHEREAS, Mr. Schnell has undergone, and continues to  
6 undergo, psychiatric treatment and counseling for a permanent  
7 psychiatric injury resulting from the accident, and

8           WHEREAS, Mrs. Schnell was transported by helicopter  
9 from the scene of the accident to Holmes Regional Medical  
10 Center in Melbourne, where she underwent emergency, lifesaving  
11 surgery to ameliorate a catastrophic brain injury sustained in  
12 the accident, and she subsequently underwent four additional  
13 surgeries during her hospitalization, and

14           WHEREAS, on March 3, 1997, Mrs. Schnell, who was  
15 semicomatose, was transferred to Orlando Regional Medical  
16 Center, Sandlake Hospital, and

17           WHEREAS, at Sandlake Hospital, Mrs. Schnell began  
18 speech, occupational, and physical therapy and underwent  
19 another major surgical procedure, and

20           WHEREAS, while hospitalized in Orlando, Mrs. Schnell  
21 was declared by the court to be an incapacitated person, and  
22 her husband was appointed her legal guardian, and

23           WHEREAS, on June 24, 1997, Mrs. Schnell was transferred  
24 to Healthsouth Treasure Coast Rehabilitation Hospital in Vero  
25 Beach and was later transferred to Florida Institute for  
26 Neurologic Rehabilitation in Wauchula, Florida, and

27           WHEREAS, she presently requires care 24 hours a day,  
28 must use a wheelchair, has paralysis of her right side, has  
29 moderate loss of her short-term memory, and requires  
30 assistance in all her daily activities, and

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1           WHEREAS, Mrs. Schnell's doctors and case managers  
2 recommend that, upon discharge from the Florida Institute, she  
3 be transferred to the home environment and cared for there,  
4 with the aid of attendants and residential services, and  
5 continual lifetime speech, occupational, and physical  
6 therapies, and

7           WHEREAS, before the accident, Mrs. Schnell was a  
8 41-year-old attorney who also had a bachelor's degree and one  
9 master's degree, and was working toward a second master's  
10 degree, and

11           WHEREAS, after 7 days of trial, a jury awarded Mrs.  
12 Schnell \$875,446 for past medical bills and lost wages,  
13 \$9,331,774 for future medical bills and lost wages, \$1 million  
14 for past pain and suffering, and \$5 million for future pain  
15 and suffering, for a total award of \$16,207,220, and

16           WHEREAS, the jury also awarded Mr. Schnell \$41,159 for  
17 past medical bills and lost wages and \$4,171 for future lost  
18 wages, \$500,000 for past pain and suffering and \$1 million for  
19 future pain and suffering, and damages for the loss of his  
20 wife's consortium in the amount of \$500,000 for past loss and  
21 \$1 million for the future, for a total award of \$3,045,330,  
22 and

23           WHEREAS, after the jury's verdict was entered, the  
24 trial judge ordered a remittitur, reducing the award to Mrs.  
25 Schnell to \$14,784,089 and reducing the award to Mr. Schnell  
26 to \$2,227,468.84, and

27           WHEREAS, the Department of Highway Safety and Motor  
28 Vehicles has paid a total of \$200,000 to the claimants under  
29 section 768.28, Florida Statutes, Florida's sovereign immunity  
30 law, and

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1           WHEREAS, after final judgment was entered, the parties  
2 agreed to settle all outstanding claims in this matter for  
3 \$9,750,000, to be paid to the claimants pursuant to a claim  
4 bill, and

5           WHEREAS, the \$9,750,000 settlement amount will be  
6 apportioned as follows: for Elizabeth Schnell in the amount  
7 of \$8,473,349.07 and for Frederick Schnell in the amount of  
8 \$1,276,650.93, and

9           WHEREAS, the Legislature has generally favored  
10 structured payments and guaranteed term annuities in large  
11 claims and in claims on behalf of those who have suffered  
12 serious or permanent injuries that are likely to require  
13 substantial or long-term medical care, NOW, THEREFORE,

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15 Be It Enacted by the Legislature of the State of Florida:

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

19           Section 2. The sum of \$8,473,349.07 is appropriated  
20 out of the funds in the State Treasury to the credit of the  
21 Department of Highway Safety and Motor Vehicles to be paid to  
22 Elizabeth Schnell as relief for her losses. After the payment  
23 of fees and costs, medical bills, and other immediate needs,  
24 the remaining proceeds shall be used to purchase an  
25 appropriate structured financial plan to ensure the continued  
26 medical care of Mrs. Schnell. In the event of Mrs. Schnell's  
27 death within 20 years of the date of the enactment of this  
28 bill, the residual moneys in the structured financial plan  
29 shall revert to the General Revenue Fund of the State of  
30 Florida. If Mrs. Schnell's death occurs after 20 years of the  
31 date of the enactment of this bill, then the residual moneys

1 in the structured financial plan shall inure to the benefit of  
2 Mrs. Schnell's estate. In the event Mrs. Schnell dies prior  
3 to 20 years from the date of the enactment of this bill, then  
4 her estate shall be entitled to 2 additional years of payments  
5 pursuant to the structured financial plan.

6 Section 3. The sum of \$1,276,650.93 is appropriated  
7 out of the State Treasury to the credit of the Department of  
8 Highway Safety and Motor Vehicles to be paid to Frederick  
9 Schnell as relief for his losses.

10 Section 4. The Comptroller is directed to draw a  
11 warrant in favor of Elizabeth Schnell in the sum of  
12 \$8,473,349.07 and to draw a warrant in favor of Frederick  
13 Schnell, in the sum of \$1,276,650.93, upon funds in the State  
14 Treasury to the credit of the Department of Highway Safety and  
15 Motor Vehicles, and the State Treasurer is directed to pay the  
16 same out of such funds.

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

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