

1 A bill to be entitled
2 An act for the relief of Dennis Gay and Diana Gay;
3 providing an appropriation to compensate Dennis Gay and
4 Diana Gay for injuries sustained as a result of the
5 negligence of the Department of Transportation; providing
6 for the use of funds; providing for the reversion of funds
7 to the state; providing a limitation on the total amount
8 paid 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 58-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 and 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

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, Diana Gay, Dennis Gay's wife of 35 years, is left
42 with the care and custody of a significantly disabled man who
43 looks like her husband but no longer acts like her husband, and

44 WHEREAS, Dennis and Diana Gay filed a lawsuit against the
45 Department of Transportation seeking compensation for injuries
46 and damages sustained, and

47 WHEREAS, there is no dispute as to the liability of the
48 Department of Transportation, and the department has submitted
49 to a consent judgment in the amount of \$900,000, with Dennis Gay
50 to receive \$600,000 and Diana Gay to receive \$300,000, and

51 WHEREAS, the Department of Transportation has paid \$100,000
52 to each claimant pursuant to the limits of liability set forth
53 in s. 768.28, Florida Statutes, and payment of the remaining
54 amount is conditioned upon the passage of a claim bill by the
55 Legislature in the amount of \$700,000, of which \$500,000 is to
56 be placed in a special needs trust created for the benefit of

57 Dennis Gay and \$200,000 is to be paid to Diana Gay, NOW,
 58 THEREFORE,

59
 60 Be It Enacted by the Legislature of the State of Florida:

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

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

72 Section 3. The Chief Financial Officer is directed to draw
 73 a warrant in favor of Dennis Gay in the sum of \$500,000 upon
 74 funds in the State Treasury to the credit of the Department of
 75 Transportation, and the Chief Financial Officer is directed to
 76 pay the same out of such funds in the State Treasury not
 77 otherwise appropriated.

78 Section 4. There is appropriated from the General Revenue
 79 Fund to the Department of Transportation the sum of \$200,000 for
 80 the relief of Diana Gay as compensation for injuries and damages
 81 sustained.

82 Section 5. The Chief Financial Officer is directed to draw
 83 a warrant in favor of Diana Gay in the sum of \$200,000 upon
 84 funds in the State Treasury to the credit of the Department of

85 Transportation, and the Chief Financial Officer is directed to
86 pay the same out of such funds in the State Treasury not
87 otherwise appropriated.

88 Section 6. Any amount paid by the Department of
89 Transportation pursuant to the waiver of sovereign immunity
90 permitted under s. 768.28, Florida Statutes, and the award under
91 this act are intended to provide the sole compensation for all
92 present and future claims arising out of the factual situation
93 described in the preamble to this act which resulted in injuries
94 and damages to Dennis Gay and Diana Gay. The total amount paid
95 for attorney's fees, lobbying fees, costs, and other similar
96 expenses relating to this claim may not exceed 25 percent of the
97 amount awarded under sections 2 and 4 of this act.

98 Section 7. This act shall take effect upon becoming a law.