

By Senator Joyner

18-00177-08

200836\_\_

1 A bill to be entitled

2 An act relating to Dennis Gay and Diana Gay, wife of  
3 Dennis Gay; providing an appropriation to compensate  
4 Dennis and Diana Gay for injuries sustained as a result of  
5 the negligence of the Department of Transportation;  
6 providing for the use of funds; providing for the  
7 reversion of funds to the state; providing for payment by  
8 the Chief Financial Officer; providing a limitation on the  
9 payment of attorney's fees and lobbying fees and costs;  
10 providing an 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, thrown approximately 27 feet rendering  
16 him unconscious, and taken by ambulance to Tampa General  
17 Hospital, and

18 WHEREAS, Mr. Gay was admitted to the hospital in critical  
19 condition and diagnosed as having a skull fracture, subarachnoid  
20 hemorrhage, subdural hematoma, intracerebral hemorrhage, and left  
21 hemiparesis, and the primary neurosurgeon induced a coma to try  
22 and control the swelling in Mr. Gay's brain, and

23 WHEREAS, Mr. Gay was objectively diagnosed by magnetic  
24 resonance imaging as having significant brain bleeding, which  
25 left him permanently brain-damaged and suffering from impaired  
26 cognitive functioning and loss of emotional control, and the  
27 neuropsychologist hired by the Department of Transportation to  
28 examine Mr. Gay concurred in the finding of permanent brain  
29 damage, and

18-00177-08

200836\_\_

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

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

41 WHEREAS, Dennis and Diana Gay filed a lawsuit against the  
42 Department of Transportation seeking compensation for injuries  
43 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 to  
46 a consent judgment in the amount of \$900,000, with Dennis Gay to  
47 receive \$600,000 and his wife to receive \$300,000, and

48 WHEREAS, the Department of Transportation has paid \$100,000  
49 to each claimant pursuant to the limits of liability set forth in  
50 s. 768.29, Florida Statutes, and the remainder is conditioned  
51 upon the passage of a claim bill by the Legislature in the amount  
52 of \$700,000, of which \$500,000 is to be placed in a special needs  
53 trust created for the benefit of Dennis Gay, and \$200,000 is to  
54 be paid to Diana Gay, NOW, THEREFORE,

55

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

57

58 Section 1. The facts stated in the preamble to this act are

18-00177-08

200836\_\_

59 found and declared to be true.

60 Section 2. There is appropriated from the General Revenue  
61 Fund to the Department of Transportation as compensation for  
62 injuries and damages sustained by Dennis and Diana Gay due to the  
63 negligence of the department, and as agreed to in a consent  
64 judgment:

65 (1) The sum of \$500,000, to be paid to Dennis Gay and  
66 placed in a special needs trust created for the use and benefit  
67 of Dennis Gay. Any funds remaining in the trust upon the death of  
68 Dennis Gay shall revert to the General Revenue Fund; and

69 (2) The sum of \$200,000, to be paid to Diana Gay.

70 Section 3. The Chief Financial Officer is directed to draw  
71 warrants upon funds in the State Treasury to the credit of the  
72 Department of Transportation in the amount of \$500,000 in favor  
73 of Dennis Gay; and the amount of \$200,000 in favor of Diana Gay.

74 Section 4. Any amount paid by the Department of  
75 Transportation pursuant to the waiver of sovereign immunity  
76 permitted under s. 768.28, Florida Statutes, and this award are  
77 intended to provide the sole compensation for all present and  
78 future claims arising out of the factual situation described in  
79 the preamble to this act which resulted in injuries and damages  
80 to Dennis and Diana Gay. The total amount paid for attorney's  
81 fees, lobbying fees, costs, and other similar expenses relating  
82 to this claim may not exceed 25 percent of the amount awarded  
83 under section 3 of this act.

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