

By Senator Baker

20-00111A-10

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1                                   A bill to be entitled  
2           An act for the relief of the Estate of Dr. Sherrill  
3           Lynn Aversa; providing an appropriation to compensate  
4           the Estate of Dr. Sherrill Lynn Aversa for Dr.  
5           Aversa's death as result of the negligence of the  
6           Department of Transportation; providing for attorney's  
7           fees and costs; providing a limitation on the payment  
8           of fees and costs; providing an effective date.  
9  
10          WHEREAS, on June 21, 1999, an employee of the Department of  
11         Transportation was driving a departmental truck northbound on  
12         Interstate 75 in Hillsborough County, Florida, and  
13          WHEREAS, on that same day, Dr. Sherrill Lynn Aversa, having  
14         completed an interview at the University of South Florida  
15         Medical School, was traveling southbound on Interstate 75, and  
16          WHEREAS, by departmental policy, employees of the  
17         department are required to ensure that all items used by the  
18         department and stored on a truck are appropriately secured to  
19         the truck, and  
20          WHEREAS, one such item used by the department and stored on  
21         the truck was a 12-foot extension ladder stored on the top of  
22         the truck, and  
23          WHEREAS, the department's employee failed to ensure that  
24         the ladder was secured to the truck before leaving the  
25         department's maintenance yard, and  
26          WHEREAS, thereafter, while the employee traveled northbound  
27         on Interstate 75, the extension ladder flew from the roof of the  
28         truck into the northbound traffic following the department's  
29         truck, and

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30 WHEREAS, the driver of the vehicle traveling behind the  
31 department's truck swerved to avoid hitting the extension  
32 ladder, which was ejected directly at the driver in her lane of  
33 traffic, and

34 WHEREAS, as a result of the swerving movements, the driver  
35 of the vehicle behind the department's truck lost control of her  
36 vehicle, veered to the left, crossed the Interstate 75 median,  
37 and struck Dr. Aversa's vehicle, killing Dr. Aversa instantly,  
38 and

39 WHEREAS, as a result of these events, the Estate of Dr.  
40 Aversa brought suit against the Department of Transportation for  
41 the negligence causing the death of Dr. Aversa, and

42 WHEREAS, after 3 years of litigation, the department  
43 admitted liability for the accident and agreed to settle the  
44 case, and

45 WHEREAS, the parties agreed to a consent judgment solely  
46 against the department, with no finding of comparative  
47 negligence against any other party, in the amount of \$797,500,  
48 and

49 WHEREAS, the Department of Transportation has paid \$100,000  
50 to the Estate of Dr. Sherrill Lynn Aversa under the statutory  
51 limits of liability set forth in s. 768.28, Florida Statutes,  
52 NOW, THEREFORE,

53  
54 Be It Enacted by the Legislature of the State of Florida:

55  
56 Section 1. The facts stated in the preamble to this act are  
57 found and declared to be true.

58 Section 2. The Executive Office of the Governor is directed

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59 to establish spending authority from unappropriated trust fund  
60 balances of the Department of Transportation in the amount of  
61 \$697,500 to a new category titled "Relief: Estate of Dr.  
62 Sherrill Lynn Aversa" as compensation to the Estate of Dr.  
63 Sherrill Lynn Aversa for the death of Dr. Aversa, which amount  
64 includes attorney's fees and costs.

65 Section 3. The Chief Financial Officer is directed to draw  
66 a warrant in favor of the Estate of Dr. Sherrill Lynn Aversa in  
67 the sum of \$697,500 upon funds of the Department of  
68 Transportation not otherwise encumbered, and the Chief Financial  
69 Officer is directed to pay the same out of such funds in the  
70 State Treasury.

71 Section 4. The amount paid by the Department of  
72 Transportation pursuant to s. 768.28, Florida Statutes, and the  
73 amount awarded under this act are intended to provide the sole  
74 compensation for all present and future claims arising out of  
75 the factual situation described in this act which resulted in  
76 the death of Dr. Sherrill Lynn Aversa. The total amount paid for  
77 attorney's fees, lobbying fees, costs, and other similar  
78 expenses relating to this claim may not exceed 25 percent of the  
79 amount awarded under this act.

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