

By Senator Altman

16-00046-16

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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 a result of the negligence of the  
6       Department of Transportation; requiring the Executive  
7       Office of the Governor to establish spending authority  
8       from unappropriated trust fund balances of the  
9       department for compensation to the Estate of Dr.  
10      Sherrill Lynn Aversa; providing attorney fees and  
11      costs and a limitation on such fees and costs;  
12      providing an effective date.

13  
14       WHEREAS, on June 21, 1999, an employee of the Department of  
15      Transportation was driving a department vehicle northbound on  
16      Interstate 75 in Hillsborough County, and

17       WHEREAS, on that same day, Dr. Sherrill Lynn Aversa, having  
18      completed an interview at the University of South Florida  
19      Medical School, was traveling southbound on Interstate 75, and

20       WHEREAS, according to departmental policy, employees of the  
21      department are required to ensure that all items used by the  
22      department and stored on a department vehicle are appropriately  
23      secured, and

24       WHEREAS, one such item used by the department was a 12-foot  
25      extension ladder stored on the roof of the truck driven by the  
26      department employee and the employee failed to ensure that the  
27      ladder was secured to the vehicle before leaving the  
28      department's maintenance yard, and

29       WHEREAS, as the employee traveled northbound on Interstate

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30 75 in the department vehicle, the extension ladder flew off the  
31 roof into the northbound traffic traveling behind it, and

32 WHEREAS, the driver of the vehicle traveling behind the  
33 department vehicle swerved to avoid hitting the ladder and, as a  
34 result of the swerving movement, lost control of her vehicle,  
35 veered to the left, crossed the Interstate 75 median, and struck  
36 Dr. Aversa's vehicle, killing Dr. Aversa instantly, and

37 WHEREAS, as a result of these events, the Estate of Dr.  
38 Sherrill Lynn Aversa brought suit against the department for its  
39 negligence in causing the death of Dr. Aversa, and

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

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

46 WHEREAS, the department has paid \$100,000 to the Estate of  
47 Dr. Aversa under the statutory limits of liability set forth in  
48 s. 768.28, Florida Statutes, NOW, THEREFORE,

49  
50 Be It Enacted by the Legislature of the State of Florida:

51  
52 Section 1. The facts stated in the preamble to this act are  
53 found and declared to be true.

54 Section 2. The Executive Office of the Governor is directed  
55 to establish spending authority from unappropriated trust fund  
56 balances of the Department of Transportation in the amount of  
57 \$697,500 to a new category titled "Relief: Estate of Dr.  
58 Sherrill Lynn Aversa" as compensation to the Estate of Dr.

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59 Sherrill Lynn Aversa for the death of Dr. Sherrill Lynn Aversa,  
60 which amount includes attorney fees and costs.

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

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

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