

By Senator Hill

1-00040-11

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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; 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 for attorney's fees
11 and costs; providing a limitation on the payment of
12 fees and costs; providing an effective date.

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14 WHEREAS, on June 21, 1999, an employee of the Department of
15 Transportation was driving a departmental truck northbound on
16 Interstate 75 in Hillsborough County, Florida, 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 truck are appropriately secured to
23 the truck, and

24 WHEREAS, one such item used by the department and stored on
25 the truck was a 12-foot extension ladder stored on the top of
26 the truck, and

27 WHEREAS, the department's employee failed to ensure that
28 the ladder was secured to the truck before leaving the
29 department's maintenance yard, and

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30 WHEREAS, thereafter, while the employee traveled northbound
31 on Interstate 75, the extension ladder flew from the roof of the
32 truck into the northbound traffic following the department's
33 truck, and

34 WHEREAS, the driver of the vehicle traveling behind the
35 department's truck swerved to avoid hitting the extension
36 ladder, which was ejected directly at the driver in her lane of
37 traffic, and

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

43 WHEREAS, as a result of these events, the Estate of Dr.
44 Aversa brought suit against the Department of Transportation for
45 the negligence causing the death of Dr. Aversa, and

46 WHEREAS, after 3 years of litigation, the department
47 admitted liability for the accident and agreed to settle the
48 case, and

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

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

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

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

Section 2. The Executive Office of the Governor is directed to establish spending authority from unappropriated trust fund balances of the Department of Transportation in the amount of \$697,500 to a new category titled "Relief: Estate of Dr. Sherrill Lynn Aversa" as compensation to the Estate of Dr. Sherrill Lynn Aversa for the death of Dr. Aversa, which amount includes attorney's fees and costs.

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

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

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