

By the Committee on Finance and Taxation; and Senator Jones

314-1814-02

1                                   A bill to be entitled  
2           An act relating to the Monroe County School  
3           District; providing for the relief of Joshua  
4           England, a minor, authorizing and directing the  
5           District School Board of Monroe County to  
6           compensate Joshua England for personal injuries  
7           that he suffered due to the negligence of  
8           school board employees; providing for the use  
9           of such funds; providing for forfeiture and  
10          reversion of the funds; providing for trustee  
11          qualifications; providing an effective date.  
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13          WHEREAS, on September 3, 1999, Joshua England was at  
14          the Key West High School swimming pool, along with 10 other  
15          students who were enrolled in the school's special education  
16          class, and was under the direct and sole supervision of five  
17          teachers from Key West High School, who were employees of the  
18          District School Board of Monroe County, and  
19          WHEREAS, the students, including Joshua, were at the  
20          pool to swim; however, Joshua did not know how to swim, a fact  
21          that was known by Joshua's teachers, and  
22          WHEREAS, the teachers failed to monitor Joshua's  
23          activities and his location, inexcusably allowing him to sink  
24          unnoticed to the bottom of the pool, and  
25          WHEREAS, when the teachers found Joshua at the bottom  
26          of the pool, he was not breathing, and  
27          WHEREAS, he was subsequently airlifted to Miami  
28          Children's Hospital, where he remained for approximately 3  
29          months, and  
30          WHEREAS, Joshua was subsequently stabilized and  
31          transferred to the special care/vent care unit of North Shore

1 Hospital and then to Broward Children's Center, where he  
2 remains in a vegetative state, and

3 WHEREAS, Joshua will require full-time,  
4 around-the-clock nursing care for the remainder of his life,  
5 and

6 WHEREAS, in March 2000, a suit was filed on Joshua's  
7 behalf against the District School Board of Monroe County, and

8 WHEREAS, the plaintiffs and the school board have  
9 entered into a stipulation of settlement by which both parties  
10 agree that Joshua will seek a claim bill under which the  
11 school board will pay \$2.5 million above the amount already  
12 paid to settle claims relating to this matter, and

13 WHEREAS, the agreement further specifies the payment  
14 schedule that is to be followed, NOW, THEREFORE,

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

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

20 Section 2. (1) The District School Board of Monroe  
21 County is authorized and directed to appropriate from funds  
22 not otherwise appropriated, and to draw a warrant payable to  
23 the guardian of Joshua England, a minor, for the total amount  
24 of \$2.5 million for injuries and damages sustained due to the  
25 negligence of employees of the school district. This amount  
26 shall be paid as follows:

27 (a) On the first July 1 after the effective date of  
28 this act, the balance remaining from the sum of \$800,000,  
29 after payment of statutory attorney's fees and costs and any  
30 outstanding medical liens, shall be placed in a Special Needs  
31 Trust created for the exclusive use and benefit of Joshua

1 England, a minor, to compensate him for injures and damages  
2 sustained; and

3 (b) On July 1, one year after the initial payment of  
4 \$800,000 is made, \$700,000 is to be placed into the Special  
5 Needs Trust for the exclusive use and benefit of Joshua  
6 England; and

7 (c) On each consecutive July 1 commencing after the  
8 \$700,000 payment is made, and for 5 years thereafter, \$200,000  
9 shall be placed into the Special Needs Trust for the exclusive  
10 use and benefit of Joshua England, until an additional  
11 cumulative sum of \$1,000,000 is paid.

12 (2) If Joshua England dies prior to payment of any  
13 sums required in paragraph (1)(c), any unpaid sums due at the  
14 time of his death are forfeited on a pro-rated basis for the  
15 year of death, and thereafter, the District School Board of  
16 Monroe County is not obligated to make any additional  
17 payments.

18 (3) Any funds remaining in the Special Needs Trust at  
19 the time of Joshua England's death, after the payment of any  
20 outstanding Medicaid liens, shall revert to the District  
21 School Board of Monroe County.

22 (4) At least one trustee of the Special Needs Trust  
23 established for the benefit of Joshua England must possess  
24 financial and trust management experience, and may not be a  
25 relative of Joshua England. The term "relative" as used in  
26 this subsection means a parent, grandparent, sibling, cousin,  
27 aunt, uncle, niece or nephew, whether related by whole or half  
28 blood, by affinity, or by adoption.

29 Section 3. This act shall take effect upon becoming a  
30 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
SB 60

The Committee Substitute provides that the settlement be paid into a special needs trust according to a specific schedule over seven years.