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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/23/2009	.	
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	.	

The Policy and Steering Committee on Ways and Means (Pruitt) recommended the following:

Senate Amendment (with title amendment)

Delete lines 155 - 191
and insert:

Section 2. There is appropriated from the Federal Grants Trust Fund within the Department of Children and Family Services the sum of \$950,000 each year for fiscal years 2009-2010 through 2018-2019, inclusive, to the department for the relief of Jorge and Debbie Garcia-Bengochea and their adopted sons, Brian, Matthew, and James Garcia-Bengochea, for injuries and damages sustained as a result of negligent acts by employees and agents



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12 of the Department of Children and Family Services or its
13 predecessor agency, the Department of Health and Rehabilitative
14 Services.

15 Section 3. For fiscal years 2009-2010 through 2018-2019,
16 inclusive, the Chief Financial Officer is directed to draw
17 annually a warrant in favor of Jorge and Debbie Garcia-Bengochea
18 and of the trusts in place for Brian, Matthew, and James in the
19 sum of \$950,000 upon funds of the Department of Children and
20 Family Services in the State Treasury. The Chief Financial
21 Officer is directed to pay the same out of such funds in the
22 State Treasury. These funds shall be distributed annually as
23 follows:

24 (1) The sum of \$256,666.66 to the special needs trust for
25 Brian Garcia-Bengochea;

26 (2) The sum of \$256,666.66 to the special needs trust for
27 Matthew Garcia-Bengochea;

28 (3) The sum of \$256,666.66 to the special needs trust for
29 James Garcia-Bengochea;

30 (4) The sum of \$90,000 to Debbie Garcia-Bengochea; and

31 (5) The sum of \$90,000 to Jorge Garcia-Bengochea.

32 Section 4. (1) This award, appropriated up to a grand total
33 of \$9.5 million, is intended to provide the sole compensation
34 for all present and future claims arising out of the factual
35 situation described in this act which resulted in the injury to
36 Jorge and Debbie Garcia-Bengochea and their adopted sons, Brian,
37 Matthew, and James Garcia-Bengochea.

38 (2) The total amount paid for attorney's fees and lobbying
39 fees are to be paid to the attorneys and lobbyists currently
40 retained by the claimants. The total amount paid for attorney's



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41 fees, lobbying fees, costs, and other similar expenses relating
42 to this claim may not exceed 25 percent of each annual payment
43 awarded pursuant to this act. Further, no more than 25 percent
44 of each annual payment may be used to pay attorney's fees,
45 lobbying fees, costs, and other similar expenses relating to
46 this claim.

47 Section 5. (1) It is the intent of the Legislature that the
48 department's recognition of its negligence as the cause of the
49 injuries suffered by the minor children, as provided by the
50 parties' settlement agreement, is ratified by this act and all
51 lien interests held by the state resulting from the treatment
52 and care of Jorge and Debbie Garcia-Bengochea and their adopted
53 sons, Brian, Matthew and James Garcia-Bengochea, for the
54 occurrences described in this act are waived.

55 (2) Brian, Matthew, and James Garcia-Bengochea shall be
56 eligible for services from the Department of Children and Family
57 Services as though each child is eligible for foster care-
58 related services.

59
60 ===== T I T L E A M E N D M E N T =====

61 And the title is amended as follows:

62 Delete line 8

63 and insert:

64 predecessor agency; providing for the distribution of
65 funds; providing a limitation on the