

1 A bill to be entitled

2 An act for the relief of Jerry Cunningham by Broward  
3 County; providing for an appropriation to compensate  
4 him for injuries sustained as a result of the  
5 negligence of Broward County; providing that the  
6 appropriation settles all present and future claims  
7 related to the negligent act; providing a limitation  
8 on the payment of compensation, fees, and costs;  
9 providing an effective date.

10  
11 WHEREAS, on May 10, 2013, Jerry Cunningham and his mother  
12 walked from their home to a bus stop for Broward County Transit  
13 on Sample Road in Pompano Beach, where Jerry was to board the  
14 bus to take him to school, and

15 WHEREAS, Jerry Cunningham presented himself at the  
16 threshold of the bus and was attempting to board the bus with  
17 its door still open when the bus driver proceeded to close the  
18 door on Jerry's arm, and

19 WHEREAS, the bus driver began to leave the bus stop even  
20 though passengers allegedly alerted the driver to Jerry  
21 Cunningham's presence and even though two other passengers who  
22 had just boarded had not yet crossed the standee line to find a  
23 seat, which was in direct violation of state requirements and a  
24 policy issued in a Broward County Transit memorandum in March  
25 2013, and

26           WHEREAS, as the bus continued to pull away, Jerry  
27           Cunningham attempted to run alongside the bus with his arm  
28           caught in the doors until he eventually fell to the pavement,  
29           unable to keep up with the bus's speed, and

30           WHEREAS, after the accident, Jerry Cunningham was  
31           immediately transported to Broward Health North and was  
32           subsequently airlifted to the pediatric intensive care unit at  
33           Broward Health Medical Center, and

34           WHEREAS, on June 13, 2013, Jerry Cunningham was transferred  
35           to Jackson Memorial Hospital's family-centered pediatric  
36           rehabilitation program in order to receive intensive  
37           occupational, physical, speech, and neuropsychological therapy,  
38           and

39           WHEREAS, as a result of the accident, Jerry Cunningham  
40           suffered traumatic brain injury, multiple skull fractures,  
41           multiple facial fractures, multiple rib fractures, a right  
42           clavicle fracture, a right scapular fracture, a right pulmonary  
43           contusion, and a left medial malleolus fracture and was placed  
44           in a medically induced coma for approximately 1 month, and

45           WHEREAS, Jerry Cunningham continues to be impacted by the  
46           accident through his diagnoses of neurocognitive disorder,  
47           adjustment disorder with depression, central auditory processing  
48           disorder, neuropsychological impairment in processing speed and  
49           memory, motor dexterity impairment, and various physical  
50           limitations, and

51 WHEREAS, the bus driver owed a duty of care to Jerry  
 52 Cunningham, and Broward County is vicariously liable for the  
 53 negligence of the bus driver, who was acting within the normal  
 54 scope of his employment, and

55 WHEREAS, Jerry Cunningham and his parents, Lilliam and  
 56 Gerrard Cunningham, have agreed to a settlement with Broward  
 57 County in the sum of \$850,000, and Broward County has agreed to  
 58 pay \$300,000 of the settlement pursuant to the statutory limits  
 59 of liability set forth in s. 768.28, Florida Statutes, leaving a  
 60 remaining balance of \$550,000, NOW, THEREFORE,

61

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

63

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

66 Section 2. Broward County is authorized and directed to  
 67 appropriate from funds not otherwise encumbered and to draw a  
 68 warrant in the sum of \$550,000, to be placed in the special  
 69 needs trust created for the exclusive use and benefit of Jerry  
 70 Cunningham as compensation for injuries and damages sustained.

71 Section 3. The amount paid by Broward County pursuant to  
 72 s. 768.28, Florida Statutes, and the amount awarded under this  
 73 act are intended to provide the sole compensation for all  
 74 present and future claims arising out of the factual situation  
 75 described in this act which resulted in injuries and damages to

CS/HB 6545

2017

76 Jerry Cunningham. Of the amount awarded under this act, the  
77 total amount paid for attorney fees may not exceed \$104,500, the  
78 total amount paid for lobbying fees may not exceed \$33,000, and  
79 no amount may be paid for costs and other similar expenses  
80 relating to this claim.

81 Section 4. This act shall take effect upon becoming a law.