

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
 APPROPRIATIONS SUBCOMMITTEE ON FINANCE AND
 TAX
 Senator Stargel, Chair
 Senator Garcia, Vice Chair

MEETING DATE: Wednesday, March 15, 2017
TIME: 9:30—11:30 a.m.
PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Stargel, Chair; Senator Garcia, Vice Chair; Senators Campbell, Rodriguez, and Steube

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 378 Flores	Taxation; Revising the allocation of proceeds from the communications services tax on direct-to-home satellite services; revising the distribution of proceeds from certain sales and use taxes and communications services taxes to specified trust funds; deleting the credit against the insurance premium tax which is based on the amount paid in salaries to certain employees within this state, etc. AFT 03/15/2017 Not Considered AP	Not Considered
2	SB 1156 Stargel	Corporate Income Tax; Adopting the 2017 version of the Internal Revenue Code, etc. AFT 03/15/2017 Favorable AP	Favorable Yeas 3 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Finance and Tax

BILL: SB 378

INTRODUCER: Senator Flores

SUBJECT: Taxation

DATE: March 14, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Babin/Fournier</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 378 reduces the state's communications services tax rates by two percentage points, effective for sales of communications services reflected on bills after July 1, 2017, and deletes the salary tax credit for insurance companies, effective for premiums received after December 31, 2016.

The Revenue Estimating Conference estimates that the reduction in the state communications services tax rates will decrease General Revenue receipts by \$230.9 million in Fiscal Year 2017-2018, with a recurring impact of \$251.9 million. The deletion of the salary tax credit will increase General Revenue receipts by \$453.3 million in Fiscal Year 2017-2018, and \$299.6 million on a recurring basis. In total, the bill will increase General Revenue receipts by \$222.4 million in Fiscal Year 2017-2018, and \$47.7 million on a recurring basis.

II. Present Situation:

The bill affects two revenue sources. The present situation for each issue is explained below in Effect of Proposed Changes.

III. Effect of Proposed Changes:

Sections 1 – 8 (Communications Services Tax)

Present Situation: Florida imposes a communications services tax on the sale of communication services, including telecommunications (both wireline and mobile), cable television, direct-to-home satellite television and other services.¹ Sales of communications services are subject to both the communications services tax and the gross receipts tax.²

¹ See generally ch. 202, F.S.

² Section 202.12(1)(c), F.S.

Most sales of communications services are subject to a state communications services tax rate of 4.92 percent³ and a state gross receipts tax rate of 2.52 percent⁴, for a combined state tax rate of 7.44 percent.⁵

In addition to the state taxes, local governments may impose a local communications services tax.⁶ The maximum local communications services tax rate for municipalities or charter counties is 5.1 percent, or 4.98 percent, if the municipality or charter county levies certain permit fees.⁷ The maximum rate for non-charter counties is 1.6 percent.⁸ Local governments are not authorized to impose franchise fees for rights-of-way on communications services providers;⁹ however, municipalities and charter counties are authorized to impose an additional 0.12 percent, and non-charter counties are authorized to impose an additional 0.24 percent.¹⁰ Lastly, local governments are authorized to impose emergency rates that exceed the statutory limits in certain situations.¹¹

Direct-to-home satellite service is subject to a state communications services tax rate of 9.07 percent¹² and is subject to the 2.37 percent state gross receipts tax¹³ for a combined rate of 11.44 percent. The local communications services tax does not apply to direct-to-home satellite service.

A portion of the state communications tax on direct-to-home satellite service is shared directly with local governments.¹⁴ The remaining collections of the state tax on direct-to-home satellite service and all of the state tax on other communications services are treated like state sales tax collections and a portion is shared with cities and counties, with the remainder being deposited in the General Revenue Fund.¹⁵

Gross receipts tax collections are deposited into the Public Education Capital Outlay and Debt Service Trust Fund and are used for funding public education system capital projects.

Proposed Changes: The bill permanently reduces the state communications services tax rates by two percentage points – the standard rate is reduced from 4.92 percent to 2.92 percent, and the rate on direct-to-home satellite service is reduced from 9.07 percent to 7.07 percent, beginning July 1, 2017. The bill revises the percentage of direct-to-home satellite collections shared with local governments and the revenue-sharing percentages of other collections to ensure that local

³ Section 202.12(1)(a), F.S.

⁴ See s. 203.01(1)(b)2. and 3., F.S.

⁵ The gross receipts tax is comprised of two separate taxes, one at the rate of 2.37 percent and another at the rate of 0.15 percent. Dealers of communications services are authorized to combine the 4.92 percent communications services tax and the 0.15 percent gross receipts tax into a single tax of 5.07 percent. See s. 203.001, F.S.

⁶ Section 202.19, F.S.

⁷ Section 202.19(2)(a), F.S.

⁸ Section 202.19(2)(b), F.S.

⁹ Section 337.401(3)(a), F.S.

¹⁰ Section 202.19(2)(c), F.S.

¹¹ See s. 202.20, F.S.

¹² Section 202.12(1)(b), F.S.

¹³ Section 203.01(1)(b)2., F.S.

¹⁴ See s. 202.18, F.S.

¹⁵ Section 212.20(6)(d), F.S.

government receipts are not affected by the rate changes in the bill. The gross receipts tax rate is not affected.

The tax rate changes apply to taxable transactions included on bills for communications services dated on or after July 1, 2017. Dealers that are unable to implement the rate reductions by July 1, 2017, may continue collecting tax at the previous tax rates as late as October 1, 2017, but must subsequently refund to customers any such excess collections by March 1, 2018.

The bill grants the Department of Revenue emergency rulemaking authority to implement the changes to the communications services tax.

Sections 9-12 (Insurance Premium Tax)

Present Situation: Florida imposes a tax of 1.75 percent on most Florida insurance premiums.¹⁶ (Different tax rates apply to wet marine and transportation insurance, self-insurance, and annuity premiums.) Several credits are provided that can be used by insurance companies to reduce their premium tax liability.¹⁷

The Florida employees' salary credit is equal to 15 percent of salaries paid to employees located or based within this state, and does not include amounts paid as commissions. For purposes of this credit, "employees" does not include independent contractors or any person whose duties require that the person hold a valid license under the Florida Insurance Code, except adjustors, managing general agents, and service representatives.

Until 1987, Florida exempted insurance companies that maintained their home offices in Florida from the insurance premium tax, and provided a lower tax rate for out-of-state insurance companies doing business in Florida if they owned and substantially occupied any building in the state as a regional home office. Chapter 87-99, L.O.F., repealed these differential rates and provided a credit equal to 10 percent of the salaries of Florida employees. One year later, chapter 88-20, L.O.F., increased the salary credit to 15 percent.

The maximum salary credit that can be taken is equal to the lesser of total premium tax due after subtracting credits for taxes levied for police and firefighters' retirement funds and corporate income taxes paid, or 15 percent of eligible Florida salaries.¹⁸ This amount is further limited by a requirement that the sum of the salary credit and the credit for corporate income taxes paid may not exceed 65 percent of the total premium tax due after subtracting credits for taxes levied for police and firefighters' retirement funds and workers' compensation administrative assessment credits.

¹⁶ Section 624.509(1), F.S.

¹⁷ Credit for payments to police and firefighters' retirement trust funds (s. 175.141, F.S.) and (s. 185.12, F.S.); Corporate Income Tax Credit (s. 624.509(4), F.S.); Florida Employees' Salary Credit (s. 624.509(5), F.S.); New Markets Tax Credit (s. 288.9916, F.S.); Capital Investment Tax Credit (s. 220.191, F.S.); Community Contribution Tax Credit (s. 624.5105, F.S.); Child Care Tax Credit (s. 624.5107, F.S.); Credit for Contributions to Scholarship-Funding Organizations (s. 624.51055, F.S.); Credit for assessments paid to the Workers' Compensation Administration Trust Fund (s. 440.51(5), F.S.); and assessments paid to the Florida Life and Health Insurance Guaranty Association (s. 631.72, F.S.).

¹⁸ Section 624.509(4), F.S.

Credits and deductions against the insurance premium tax must be taken in the following order prescribed in s. 624.509(7), F.S.: credits for assessments paid to the Workers' Compensation Administration Trust Fund, credits for taxes levied by local governments to fund firefighters' and police retirement trust funds, credits for corporate income taxes, credits for employees' salaries, and all other available credits and deductions.

Because of the types of credits that are available, the order in which they must be taken, and the limits placed on some credits, an insurer may not be able to take full advantage of all the credits available to it. In the 2015 insurance premium tax year, 15 percent of eligible salaries equaled \$558.4 million. However, because of the other credits taken and the 65 percent limitation on combined salary and corporate income tax credits, total salary credits taken on tax returns were \$287.4 million.

Proposed Change: The bill amends s. 624.509, F.S., to delete the Florida employees' salary tax credit for premiums received after December 31, 2016, and makes conforming changes to ss. 624.5091, F.S., and 624.51055, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that the reduction in the state communications services tax rates will decrease General Revenue receipts by \$230.9 million in Fiscal Year 2017-2018, with a recurring impact of \$251.9 million.¹⁹ The deletion of the salary tax credit will increase General Revenue receipts by \$453.3 million in Fiscal Year 2017-2018, and \$299.6 million on a recurring basis.^{20,21} In total, the bill will increase General Revenue receipts by \$222.4 million in Fiscal Year 2017-2018, and \$47.7 million on a recurring basis.

¹⁹ Office of Economic and Demographic Research, *Revenue Estimating Impact Conference Results*, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/_pdf/page241-247.pdf (last visited March 9, 2017).

²⁰ Office of Economic and Demographic Research, *Revenue Estimating Impact Conference Results*, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/_pdf/page248-249.pdf (last visited March 9, 2017).

²¹ The Fiscal Year 2017-2018 increase is larger than the recurring impact because it includes estimated payments for calendar year 2018 premiums.

B. Private Sector Impact:

Consumers of communications services will pay less communications services tax beginning July 1, 2017.

Some insurance companies will pay more insurance premium tax in the future.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 202.12, 202.12001, 202.18, 203.001, 212.20, 624.509, 624.5091, and 624.51055.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Flores

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1 A bill to be entitled
 2 An act relating to taxation; amending s. 202.12, F.S.;
 3 revising the tax rates on the sales of certain
 4 communications services and direct-to-home satellite
 5 services; amending s. 202.12001, F.S.; conforming a
 6 provision to changes made by the act; making a
 7 technical change; amending s. 202.18, F.S.; revising
 8 the allocation of proceeds from the communications
 9 services tax on direct-to-home satellite services;
 10 amending s. 203.001, F.S.; conforming a provision to
 11 changes made by the act; making a technical change;
 12 amending s. 212.20, F.S.; revising the distribution of
 13 proceeds from certain sales and use taxes and
 14 communications services taxes to specified trust
 15 funds; specifying requirements and procedures for a
 16 communications services dealer that is unable to
 17 implement the reduction in communications services tax
 18 rates by a specified date; providing construction;
 19 providing applicability; authorizing the executive
 20 director of the Department of Revenue to adopt
 21 emergency rules; providing an expiration date;
 22 amending s. 624.509, F.S.; deleting the credit against
 23 the insurance premium tax which is based on the amount
 24 paid in salaries to certain employees within this
 25 state; conforming provisions to changes made by the
 26 act; amending ss. 624.5091 and 624.51055, F.S.;
 27 conforming provisions to changes made by the act;
 28 providing applicability; providing effective dates.
 29

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

31
 32 Section 1. Effective July 1, 2017, paragraphs (a) and (b)
 33 of subsection (1) of section 202.12, Florida Statutes, are
 34 amended to read:

35 202.12 Sales of communications services.—The Legislature
 36 finds that every person who engages in the business of selling
 37 communications services at retail in this state is exercising a
 38 taxable privilege. It is the intent of the Legislature that the
 39 tax imposed by chapter 203 be administered as provided in this
 40 chapter.

41 (1) For the exercise of such privilege, a tax is levied on
 42 each taxable transaction and is due and payable as follows:

43 (a) Except as otherwise provided in this subsection, at the
 44 rate of 2.92 ~~4.92~~ percent applied to the sales price of the
 45 communications service that:

- 46 1. Originates and terminates in this state, or
 47 2. Originates or terminates in this state and is charged to
 48 a service address in this state,
 49
 50 when sold at retail, computed on each taxable sale for the
 51 purpose of remitting the tax due. The gross receipts tax imposed
 52 by chapter 203 shall be collected on the same taxable
 53 transactions and remitted with the tax imposed by this
 54 paragraph. If no tax is imposed by this paragraph due to the
 55 exemption provided under s. 202.125(1), the tax imposed by
 56 chapter 203 shall nevertheless be collected and remitted in the
 57 manner and at the time prescribed for tax collections and
 58 remittances under this chapter.

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59 (b) At the rate of 7.07 ~~9.07~~ percent applied to the retail
60 sales price of any direct-to-home satellite service received in
61 this state. The proceeds of the tax imposed under this paragraph
62 shall be accounted for and distributed in accordance with s.
63 202.18(2). The gross receipts tax imposed by chapter 203 shall
64 be collected on the same taxable transactions and remitted with
65 the tax imposed by this paragraph.

66 Section 2. Effective July 1, 2017, section 202.12001,
67 Florida Statutes, is amended to read:

68 202.12001 Combined rate for tax collected pursuant to ss.
69 202.12(1)(a) and 203.01(1)(b).—In complying with ss. 1-3, ch.
70 2010-149, Laws of Florida, the dealer of communications
71 ~~communication~~ services may collect a combined rate of 3.07 ~~5.07~~
72 percent, composed of the 2.92 ~~4.92~~ percent and 0.15 percent
73 rates required by ss. 202.12(1)(a) and 203.01(1)(b)3.,
74 respectively, if the provider properly reflects the tax
75 collected with respect to the two provisions as required in the
76 return to the department.

77 Section 3. Effective July 1, 2017, paragraph (b) of
78 subsection (2) of section 202.18, Florida Statutes, is amended
79 to read:

80 202.18 Allocation and disposition of tax proceeds.—The
81 proceeds of the communications services taxes remitted under
82 this chapter shall be treated as follows:

83 (2) The proceeds of the taxes remitted under s.
84 202.12(1)(b) shall be allocated as follows:

85 (b) Forty-three and four-tenths ~~Fifty-five and nine-tenths~~
86 percent of the remainder shall be allocated to the state and
87 distributed pursuant to s. 212.20(6), except that the proceeds

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88 allocated pursuant to s. 212.20(6)(d)2. shall be prorated to the
89 participating counties in the same proportion as that month's
90 collection of the taxes and fees imposed pursuant to chapter 212
91 and paragraph (1)(b).

92 Section 4. Effective July 1, 2017, section 203.001, Florida
93 Statutes, is amended to read:

94 203.001 Combined rate for tax collected pursuant to ss.
95 202.12(1)(a) and 203.01(1)(b).—In complying with ss. 1-3, ch.
96 2010-149, Laws of Florida, the dealer of communications
97 ~~communication~~ services may collect a combined rate of 3.07 ~~5.07~~
98 percent, composed of the 2.92 ~~4.92~~ percent and 0.15 percent
99 rates required by ss. 202.12(1)(a) and 203.01(1)(b)3.,
100 respectively, if the provider properly reflects the tax
101 collected with respect to the two provisions as required in the
102 return to the Department of Revenue.

103 Section 5. Effective July 1, 2017, paragraph (d) of
104 subsection (6) of section 212.20, Florida Statutes, is amended
105 to read:

106 212.20 Funds collected, disposition; additional powers of
107 department; operational expense; refund of taxes adjudicated
108 unconstitutionally collected.—

109 (6) Distribution of all proceeds under this chapter and ss.
110 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

111 (d) The proceeds of all other taxes and fees imposed
112 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
113 and (2)(b) shall be distributed as follows:

114 1. In any fiscal year, the greater of \$500 million, minus
115 an amount equal to 4.6 percent of the proceeds of the taxes
116 collected pursuant to chapter 201, or 5.2 percent of all other

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117 taxes and fees imposed pursuant to this chapter or remitted
118 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
119 monthly installments into the General Revenue Fund.

120 2. After the distribution under subparagraph 1., 9.0691
121 ~~8.9744~~ percent of the amount remitted by a sales tax dealer
122 located within a participating county pursuant to s. 218.61
123 shall be transferred into the Local Government Half-cent Sales
124 Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to
125 be transferred shall be reduced by 0.1 percent, and the
126 department shall distribute this amount to the Public Employees
127 Relations Commission Trust Fund less \$5,000 each month, which
128 shall be added to the amount calculated in subparagraph 3. and
129 distributed accordingly.

130 3. After the distribution under subparagraphs 1. and 2.,
131 0.0976 ~~0.0966~~ percent shall be transferred to the Local
132 Government Half-cent Sales Tax Clearing Trust Fund and
133 distributed pursuant to s. 218.65.

134 4. After the distributions under subparagraphs 1., 2., and
135 3., 2.1022 ~~2.0810~~ percent of the available proceeds shall be
136 transferred monthly to the Revenue Sharing Trust Fund for
137 Counties pursuant to s. 218.215.

138 5. After the distributions under subparagraphs 1., 2., and
139 3., 1.3792 ~~1.3653~~ percent of the available proceeds shall be
140 transferred monthly to the Revenue Sharing Trust Fund for
141 Municipalities pursuant to s. 218.215. If the total revenue to
142 be distributed pursuant to this subparagraph is at least as
143 great as the amount due from the Revenue Sharing Trust Fund for
144 Municipalities and the former Municipal Financial Assistance
145 Trust Fund in state fiscal year 1999-2000, no municipality shall

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146 receive less than the amount due from the Revenue Sharing Trust
147 Fund for Municipalities and the former Municipal Financial
148 Assistance Trust Fund in state fiscal year 1999-2000. If the
149 total proceeds to be distributed are less than the amount
150 received in combination from the Revenue Sharing Trust Fund for
151 Municipalities and the former Municipal Financial Assistance
152 Trust Fund in state fiscal year 1999-2000, each municipality
153 shall receive an amount proportionate to the amount it was due
154 in state fiscal year 1999-2000.

155 6. Of the remaining proceeds:

156 a. In each fiscal year, the sum of \$29,915,500 shall be
157 divided into as many equal parts as there are counties in the
158 state, and one part shall be distributed to each county. The
159 distribution among the several counties must begin each fiscal
160 year on or before January 5th and continue monthly for a total
161 of 4 months. If a local or special law required that any moneys
162 accruing to a county in fiscal year 1999-2000 under the then-
163 existing provisions of s. 550.135 be paid directly to the
164 district school board, special district, or a municipal
165 government, such payment must continue until the local or
166 special law is amended or repealed. The state covenants with
167 holders of bonds or other instruments of indebtedness issued by
168 local governments, special districts, or district school boards
169 before July 1, 2000, that it is not the intent of this
170 subparagraph to adversely affect the rights of those holders or
171 relieve local governments, special districts, or district school
172 boards of the duty to meet their obligations as a result of
173 previous pledges or assignments or trusts entered into which
174 obligated funds received from the distribution to county

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175 governments under then-existing s. 550.135. This distribution
176 specifically is in lieu of funds distributed under s. 550.135
177 before July 1, 2000.

178 b. The department shall distribute \$166,667 monthly to each
179 applicant certified as a facility for a new or retained
180 professional sports franchise pursuant to s. 288.1162. Up to
181 \$41,667 shall be distributed monthly by the department to each
182 certified applicant as defined in s. 288.11621 for a facility
183 for a spring training franchise. However, not more than \$416,670
184 may be distributed monthly in the aggregate to all certified
185 applicants for facilities for spring training franchises.
186 Distributions begin 60 days after such certification and
187 continue for not more than 30 years, except as otherwise
188 provided in s. 288.11621. A certified applicant identified in
189 this sub-subparagraph may not receive more in distributions than
190 expended by the applicant for the public purposes provided in s.
191 288.1162(5) or s. 288.11621(3).

192 c. Beginning 30 days after notice by the Department of
193 Economic Opportunity to the Department of Revenue that an
194 applicant has been certified as the professional golf hall of
195 fame pursuant to s. 288.1168 and is open to the public, \$166,667
196 shall be distributed monthly, for up to 300 months, to the
197 applicant.

198 d. Beginning 30 days after notice by the Department of
199 Economic Opportunity to the Department of Revenue that the
200 applicant has been certified as the International Game Fish
201 Association World Center facility pursuant to s. 288.1169, and
202 the facility is open to the public, \$83,333 shall be distributed
203 monthly, for up to 168 months, to the applicant. This

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204 distribution is subject to reduction pursuant to s. 288.1169. A
205 lump sum payment of \$999,996 shall be made after certification
206 and before July 1, 2000.

207 e. The department shall distribute up to \$83,333 monthly to
208 each certified applicant as defined in s. 288.11631 for a
209 facility used by a single spring training franchise, or up to
210 \$166,667 monthly to each certified applicant as defined in s.
211 288.11631 for a facility used by more than one spring training
212 franchise. Monthly distributions begin 60 days after such
213 certification or July 1, 2016, whichever is later, and continue
214 for not more than 20 years to each certified applicant as
215 defined in s. 288.11631 for a facility used by a single spring
216 training franchise or not more than 25 years to each certified
217 applicant as defined in s. 288.11631 for a facility used by more
218 than one spring training franchise. A certified applicant
219 identified in this sub-subparagraph may not receive more in
220 distributions than expended by the applicant for the public
221 purposes provided in s. 288.11631(3).

222 f. Beginning 45 days after notice by the Department of
223 Economic Opportunity to the Department of Revenue that an
224 applicant has been approved by the Legislature and certified by
225 the Department of Economic Opportunity under s. 288.11625 or
226 upon a date specified by the Department of Economic Opportunity
227 as provided under s. 288.11625(6)(d), the department shall
228 distribute each month an amount equal to one-twelfth of the
229 annual distribution amount certified by the Department of
230 Economic Opportunity for the applicant. The department may not
231 distribute more than \$7 million in the 2014-2015 fiscal year or
232 more than \$13 million annually thereafter under this sub-

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233 subparagraph.

234 g. Beginning December 1, 2015, and ending June 30, 2016,

235 the department shall distribute \$26,286 monthly to the State

236 Transportation Trust Fund. Beginning July 1, 2016, the

237 department shall distribute \$15,333 monthly to the State

238 Transportation Trust Fund.

239 7. All other proceeds must remain in the General Revenue

240 Fund.

241 Section 6. If a communications services dealer is unable to

242 implement the reduction in communications services tax rates

243 specified in s. 202.12(1)(a) and (b), Florida Statutes, as

244 amended by this act, by July 1, 2017, the dealer must remit all

245 taxes collected at the previous rate during the implementation

246 period to the Department of Revenue, and:

247 (1) Must begin collecting tax at the rates specified in s.

248 202.12(1)(a) and (b), Florida Statutes, as amended by this act,

249 by October 1, 2017.

250 (2) Must credit each customer the amount of any tax

251 collected on bills dated on or after July 1, 2017, which exceeds

252 the tax due under s. 202.12(a) and (b), Florida Statutes, as

253 amended by this act. Such credit must be provided to each

254 affected customer's account by March 1, 2018. The inability of a

255 communications services provider to provide a credit to a

256 customer's account due to the customer's termination of services

257 does not create a cause of action against the provider.

258 (3) May take a credit on its communications services tax

259 return for the amounts that have been credited to customers.

260 Section 7. The amendments made by this act to ss.

261 202.12(1), 202.12001, and 203.001, Florida Statutes, apply to

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262 taxable communications services transactions on bills dated on

263 or after July 1, 2017.

264 Section 8. (1) The executive director of the Department of

265 Revenue is authorized, and all conditions are deemed to be met,

266 to adopt emergency rules pursuant to s. 120.54(4), Florida

267 Statutes, for the purpose of implementing the amendments made by

268 this act to s. 202.12, Florida Statutes.

269 (2) Notwithstanding any other provision of law, emergency

270 rules adopted pursuant to subsection (1) are effective for 6

271 months after adoption and may be renewed during the pendency of

272 procedures to adopt permanent rules addressing the subject of

273 the emergency rules.

274 (3) This section expires July 1, 2020.

275 Section 9. Subsections (5) through (9) of section 624.509,

276 Florida Statutes, are amended to read:

277 624.509 Premium tax; rate and computation.—

278 ~~(5)(a)1. There shall be allowed a credit against the net~~

279 ~~tax imposed by this section equal to 15 percent of the amount~~

280 ~~paid by an insurer in salaries to employees located or based~~

281 ~~within this state and who are covered by the provisions of~~

282 ~~chapter 443.~~

283 2. ~~As an alternative to the credit allowed in subparagraph~~

284 ~~1., an affiliated group of corporations which includes at least~~

285 ~~one insurance company writing premiums in Florida may elect to~~

286 ~~take a credit against the net tax imposed by this section in an~~

287 ~~amount that may not exceed 15 percent of the salary of the~~

288 ~~employees of the affiliated group of corporations who perform~~

289 ~~insurance related activities, are located or based within this~~

290 ~~state, and are covered by chapter 443. For purposes of this~~

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291 ~~subparagraph, the term "affiliated group of corporations" means~~
 292 ~~two or more corporations that are entirely owned directly or~~
 293 ~~indirectly by a single corporation and that constitute an~~
 294 ~~affiliated group as defined in s. 1504(a) of the Internal~~
 295 ~~Revenue Code. The amount of credit allowed under this~~
 296 ~~subparagraph is limited to the combined Florida salary tax~~
 297 ~~credits allowed for all insurance companies that were members of~~
 298 ~~the affiliated group of corporations for the tax year ending~~
 299 ~~December 31, 2002, divided by the combined Florida taxable~~
 300 ~~premiums written by all insurance companies that were members of~~
 301 ~~the affiliated group of corporations for the tax year ending~~
 302 ~~December 31, 2002, multiplied by the combined Florida taxable~~
 303 ~~premiums of the affiliated group of corporations for the current~~
 304 ~~year. An affiliated group of corporations electing this~~
 305 ~~alternative calculation method must make such election on or~~
 306 ~~before August 1, 2005. The election of this alternative~~
 307 ~~calculation method is irrevocable and binding upon successors~~
 308 ~~and assigns of the affiliated group of corporations electing~~
 309 ~~this alternative. However, if a member of an affiliated group of~~
 310 ~~corporations acquires or merges with another insurance company~~
 311 ~~after the date of the irrevocable election, the acquired or~~
 312 ~~merged company is not entitled to the affiliated group election~~
 313 ~~and shall only be entitled to calculate the tax credit under~~
 314 ~~subparagraph 1.~~

315
 316 ~~In no event shall the salary paid to an employee by an~~
 317 ~~affiliated group of corporations be claimed as a credit by more~~
 318 ~~than one insurer or be counted more than once in an insurer's~~
 319 ~~calculation of the credit as described in subparagraph 1. or~~

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320 ~~subparagraph 2. Only the portion of an employee's salary paid~~
 321 ~~for the performance of insurance-related activities may be~~
 322 ~~included in the calculation of the premium tax credit in this~~
 323 ~~subsection.~~

324 ~~(b) For purposes of this subsection:~~

325 ~~1. The term "salaries" does not include amounts paid as~~
 326 ~~commissions.~~

327 ~~2. The term "employees" does not include independent~~
 328 ~~contractors or any person whose duties require that the person~~
 329 ~~hold a valid license under the Florida Insurance Code, except~~
 330 ~~adjusters, managing general agents, and service representatives,~~
 331 ~~as defined in s. 626.015.~~

332 ~~3. The term "net tax" means the tax imposed by this section~~
 333 ~~after applying the calculations and credits set forth in~~
 334 ~~subsection (4).~~

335 ~~4. An affiliated group of corporations that created a~~
 336 ~~service company within its affiliated group on July 30, 2002,~~
 337 ~~shall allocate the salary of each service company employee~~
 338 ~~covered by contracts with affiliated group members to the~~
 339 ~~companies for which the employees perform services. The salary~~
 340 ~~allocation is based on the amount of time during the tax year~~
 341 ~~that the individual employee spends performing services or~~
 342 ~~otherwise working for each company over the total amount of time~~
 343 ~~the employee spends performing services or otherwise working for~~
 344 ~~all companies. The total amount of salary allocated to an~~
 345 ~~insurance company within the affiliated group shall be included~~
 346 ~~as that insurer's employee salaries for purposes of this~~
 347 ~~section.~~

348 ~~a. Except as provided in subparagraph (a)2., the term~~

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349 ~~"affiliated group of corporations" means two or more~~
 350 ~~corporations that are entirely owned by a single corporation and~~
 351 ~~that constitute an affiliated group of corporations as defined~~
 352 ~~in s. 1504(a) of the Internal Revenue Code.~~

353 ~~b. The term "service company" means a separate corporation~~
 354 ~~within the affiliated group of corporations whose employees~~
 355 ~~provide services to affiliated group members and which are~~
 356 ~~treated as service company employees for reemployment assistance~~
 357 ~~or unemployment compensation and common law purposes. The~~
 358 ~~holding company of an affiliated group may not qualify as a~~
 359 ~~service company. An insurance company may not qualify as a~~
 360 ~~service company.~~

361 ~~c. If an insurance company fails to substantiate, whether~~
 362 ~~by means of adequate records or otherwise, its eligibility to~~
 363 ~~claim the service company exception under this section, or its~~
 364 ~~salary allocation under this section, no credit shall be~~
 365 ~~allowed.~~

366 ~~5. A service company that is a subsidiary of a mutual~~
 367 ~~insurance holding company, which mutual insurance holding~~
 368 ~~company was in existence on or before January 1, 2000, shall~~
 369 ~~allocate the salary of each service company employee covered by~~
 370 ~~contracts with members of the mutual insurance holding company~~
 371 ~~system to the companies for which the employees perform~~
 372 ~~services. The salary allocation is based on the ratio of the~~
 373 ~~amount of time during the tax year which the individual employee~~
 374 ~~spends performing services or otherwise working for each company~~
 375 ~~to the total amount of time the employee spends performing~~
 376 ~~services or otherwise working for all companies. The total~~
 377 ~~amount of salary allocated to an insurance company within the~~

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378 ~~mutual insurance holding company system shall be included as~~
 379 ~~that insurer's employee salaries for purposes of this section.~~
 380 ~~However, this subparagraph does not apply for any tax year~~
 381 ~~unless funds sufficient to offset the anticipated salary credits~~
 382 ~~have been appropriated to the General Revenue Fund prior to the~~
 383 ~~due date of the final return for that year.~~

384 ~~a. The term "mutual insurance holding company system" means~~
 385 ~~two or more corporations that are subsidiaries of a mutual~~
 386 ~~insurance holding company and in compliance with part IV of~~
 387 ~~chapter 620.~~

388 ~~b. The term "service company" means a separate corporation~~
 389 ~~within the mutual insurance holding company system whose~~
 390 ~~employees provide services to other members of the mutual~~
 391 ~~insurance holding company system and are treated as service~~
 392 ~~company employees for reemployment assistance or unemployment~~
 393 ~~compensation and common-law purposes. The mutual insurance~~
 394 ~~holding company may not qualify as a service company.~~

395 ~~c. If an insurance company fails to substantiate, whether~~
 396 ~~by means of adequate records or otherwise, its eligibility to~~
 397 ~~claim the service company exception under this section, or its~~
 398 ~~salary allocation under this section, no credit shall be~~
 399 ~~allowed.~~

400 ~~(c) The department may adopt rules pursuant to ss.~~
 401 ~~120.536(1) and 120.54 to administer this subsection.~~

402 ~~(5)-(6)(a) The total of the credit granted for the taxes~~
 403 ~~paid by the insurer under chapter 220 and the credit granted by~~
 404 ~~subsection (5) may not exceed 65 percent of the tax due under~~
 405 ~~subsection (1) after deducting therefrom the taxes paid by the~~
 406 ~~insurer under ss. 175.101 and 185.08 and any assessments~~

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407 pursuant to s. 440.51.

408 ~~(b) To the extent that any credits granted by subsection~~
 409 ~~(5) remain as a result of the limitation set forth in paragraph~~
 410 ~~(a), such excess credits related to salaries and wages of~~
 411 ~~employees whose place of employment is located within an~~
 412 ~~enterprise zone created pursuant to chapter 290 may be~~
 413 ~~transferred, in an aggregate amount not to exceed 25 percent of~~
 414 ~~such excess salary credits, to any insurer that is a member of~~
 415 ~~an affiliated group of corporations, as defined in sub-~~
 416 ~~paragraph (5)(b)4.a., that includes the original insurer~~
 417 ~~qualifying for the credits under subsection (5). The amount of~~
 418 ~~such excess credits to be transferred shall be calculated by~~
 419 ~~multiplying the amount of such excess credits by a fraction, the~~
 420 ~~numerator of which is the sum of the salaries qualifying for the~~
 421 ~~credit allowed by subsection (5) of employees whose place of~~
 422 ~~employment is located in an enterprise zone and the denominator~~
 423 ~~of which is the sum of the salaries qualifying for the credit~~
 424 ~~allowed by subsection (5). Any such transferred credits shall be~~
 425 ~~subject to the same provisions and limitations set forth within~~
 426 ~~part IV of this chapter. The provisions of this paragraph do not~~
 427 ~~apply to an affiliated group of corporations that participate in~~
 428 ~~a common paymaster arrangement as defined in s. 443.1216.~~

429 (6)(7) Credits and deductions against the tax imposed by
 430 this section shall be taken in the following order: deductions
 431 for assessments made pursuant to s. 440.51; credits for taxes
 432 paid under ss. 175.101 and 185.08; credits for income taxes paid
 433 under chapter 220 ~~and the credit allowed under subsection (5),~~
 434 as these credits are limited by subsection (5) (6); and all
 435 other available credits and deductions.

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436 (7)(8) The premium tax authorized by this section may not
 437 be imposed on:

438 (a) Any portion of the title insurance premium, as defined
 439 in s. 627.7711, retained by a title insurance agent or agency.
 440 It is the intent of the Legislature that this exemption be
 441 contingent on title insurers adding employees to their payroll.
 442 This paragraph expires December 31, 2017, unless the Department
 443 of Economic Opportunity determines that title insurers holding a
 444 valid certificate of authority as of July 1, 2014, have added,
 445 in aggregate, at least 600 Florida-based full-time equivalent
 446 positions above those existing on July 1, 2014, including
 447 positions obtained from a temporary employment agency or
 448 employee leasing company or through a union agreement or
 449 coemployment under a professional employer organization
 450 agreement by July 1, 2017. For purposes of this paragraph, the
 451 term "full-time equivalent position" means a position in which
 452 the employee works an average of at least 36 hours per week each
 453 month.

454 1. The Department of Economic Opportunity may verify
 455 information provided by title insurers concerning additional
 456 positions created with any appropriate agency or authority,
 457 including the Department of Revenue.

458 2. To facilitate verification of additional positions
 459 created by title insurers, the Department of Economic
 460 Opportunity may provide a list of employees holding additional
 461 positions created by title insurers to any appropriate agency or
 462 authority, including the Department of Revenue.

463 3. The Department of Economic Opportunity shall submit such
 464 determination to the President of the Senate, the Speaker of the

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465 House of Representatives, and the Department of Revenue by
466 October 1, 2017.

467 (b) Receipts of annuity premiums or considerations paid by
468 holders in this state if the tax savings derived are credited to
469 the annuity holders. Upon request by the Department of Revenue,
470 an insurer availing itself of this provision shall submit to the
471 department evidence that establishes that the tax savings
472 derived have been credited to annuity holders. As used in this
473 paragraph, the term "holders" includes employers contributing to
474 an employee's pension, annuity, or profit-sharing plan.

475 (8)(9) As used in this section, "insurer" includes any
476 entity subject to the tax imposed by this section.

477 Section 10. Subsection (1) of section 624.5091, Florida
478 Statutes, is amended to read:

479 624.5091 Retaliatory provision, insurers.—

480 (1)~~(a)~~ When by or pursuant to the laws of any other state
481 or foreign country any taxes, licenses, and other fees, in the
482 aggregate, and any fines, penalties, deposit requirements, or
483 other material obligations, prohibitions, or restrictions are or
484 would be imposed upon Florida insurers or upon the agents or
485 representatives of such insurers, which are in excess of such
486 taxes, licenses, and other fees, in the aggregate, or which are
487 in excess of the fines, penalties, deposit requirements, or
488 other obligations, prohibitions, or restrictions directly
489 imposed upon similar insurers, or upon the agents or
490 representatives of such insurers, of such other state or country
491 under the statutes of this state, so long as such laws of such
492 other state or country continue in force or are so applied, the
493 same taxes, licenses, and other fees, in the aggregate, or

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494 fines, penalties, deposit requirements, or other material
495 obligations, prohibitions, or restrictions of whatever kind
496 shall be imposed by the Department of Revenue upon the insurers,
497 or upon the agents or representatives of such insurers, of such
498 other state or country doing business or seeking to do business
499 in this state. ~~In determining the taxes to be imposed under this~~
500 ~~section, 80 percent and a portion of the remaining 20 percent as~~
501 ~~provided in paragraph (b) of the credit provided by s.~~
502 ~~624.509(5), as limited by s. 624.509(6) and further determined~~
503 ~~by s. 624.509(7), shall not be taken into consideration.~~

504 ~~(b) As used in this subsection, the term "portion of the~~
505 ~~remaining 20 percent" shall be calculated by multiplying the~~
506 ~~remaining 20 percent by a fraction, the numerator of which is~~
507 ~~the sum of the salaries qualifying for the credit allowed by s.~~
508 ~~624.509(5) of employees whose place of employment is located in~~
509 ~~an enterprise zone created pursuant to chapter 290 and the~~
510 ~~denominator of which is the sum of the salaries qualifying for~~
511 ~~the credit allowed by s. 624.509(5).~~

512 Section 11. Subsection (1) of section 624.51055, Florida
513 Statutes, is amended to read:

514 624.51055 Credit for contributions to eligible nonprofit
515 scholarship-funding organizations.—

516 (1) There is allowed a credit of 100 percent of an eligible
517 contribution made to an eligible nonprofit scholarship-funding
518 organization under s. 1002.395 against any tax due for a taxable
519 year under s. 624.509(1) after deducting from such tax
520 deductions for assessments made pursuant to s. 440.51; credits
521 for taxes paid under ss. 175.101 and 185.08; and credits for
522 income taxes paid under chapter 220; and the credit allowed

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523 ~~under s. 624.509(5), as such credit is~~ limited by s. 624.509(5)
524 ~~s. 624.509(6)~~. An insurer claiming a credit against premium tax
525 liability under this section shall not be required to pay any
526 additional retaliatory tax levied pursuant to s. 624.5091 as a
527 result of claiming such credit. Section 624.5091 does not limit
528 such credit in any manner.

529 Section 12. The amendments made by this act to ss. 624.509,
530 624.5091, and 624.51055, Florida Statutes, apply to the tax
531 imposed on premiums received after December 31, 2016.

532 Section 13. Except as otherwise expressly provided in this
533 act, this act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Appropriations Subcommittee on Finance and Tax

Subject: Committee Agenda Request

Date: March 7, 2017

I respectfully request that **Senate Bill #378**, relating to Taxation, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 39

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Finance and Tax

BILL: SB 1156

INTRODUCER: Senator Stargel

SUBJECT: Corporate Income Tax

DATE: March 14, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	Recommend: Favorable
2.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1156 updates Florida's corporate Income Tax Code by adopting the Internal Revenue Code in effect on January 1, 2017.

The bill takes effect upon becoming law and operates retroactively to January 1, 2017.

The Revenue Estimating Conference has estimated that the bill will have an indeterminate impact on General Revenue collections.

II. Present Situation:

Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida.¹ The determination of taxable income for Florida tax purposes begins with the taxable income determined for federal income tax purposes.² Additional adjustments are then made to determine Florida's taxable income. By starting with federal taxable income, Florida eases the administrative burden on Florida taxpayers.

Florida maintains this relationship with the federal Internal Revenue Code by each year adopting the federal Internal Revenue Code as it exists on January 1 of the year. By doing this, Florida adopts any changes that were made in the previous year to the determination of federal taxable income.

III. Effect of Proposed Changes:

The bill updates Florida's corporate Income Tax Code to reflect changes in the federal Internal Revenue Code. The bill takes effect upon becoming a law and operates retroactively to January 1, 2017.

¹ Sections 220.11(2) and 220.63(2), F.S.

² See generally s. 220.13(2), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has estimated that the bill will have an indeterminate impact on General Revenue collections.

B. Private Sector Impact:

By adopting recent changes to the Internal Revenue Code, Florida provides consistent tax treatment for Florida corporate taxpayers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends section 220.03 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Stargel

22-00747A-17

20171156__

1 A bill to be entitled
 2 An act relating to the corporate income tax; amending
 3 s. 220.03, F.S.; adopting the 2017 version of the
 4 Internal Revenue Code; providing retroactive
 5 operation; providing an effective date.
 6
 7 Be It Enacted by the Legislature of the State of Florida:
 8
 9 Section 1. Paragraph (n) of subsection (1) and paragraph
 10 (c) of subsection (2) of section 220.03, Florida Statutes, are
 11 amended to read:
 12 220.03 Definitions.—
 13 (1) SPECIFIC TERMS.—When used in this code, and when not
 14 otherwise distinctly expressed or manifestly incompatible with
 15 the intent thereof, the following terms shall have the following
 16 meanings:
 17 (n) "Internal Revenue Code" means the United States
 18 Internal Revenue Code of 1986, as amended and in effect on
 19 January 1, 2017 ~~2016~~, except as provided in subsection (3).
 20 (2) DEFINITIONAL RULES.—When used in this code and neither
 21 otherwise distinctly expressed nor manifestly incompatible with
 22 the intent thereof:
 23 (c) Any term used in this code has the same meaning as when
 24 used in a comparable context in the Internal Revenue Code and
 25 other statutes of the United States relating to federal income
 26 taxes, as such code and statutes are in effect on January 1,
 27 2017 ~~2016~~. However, if subsection (3) is implemented, the
 28 meaning of a term shall be taken at the time the term is applied
 29 under this code.

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30 Section 2. This act shall take effect upon becoming a law
 31 and operate retroactively to January 1, 2017.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Finance and Tax
Appropriations Subcommittee on General Government
Children, Families, and Elder Affairs
Communications, Energy, and Public Utilities
Community Affairs

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR DAPHNE CAMPBELL

38th District

March 15, 2017

The Honorable Kelli Stargel
207 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Stargel,

I would like to respectfully inform you that I was unable to attend the Appropriations Subcommittee on Finance and Tax committee meeting scheduled for Wednesday, March 15, 2017. Please have this letter serve as my excuse for not attending due to my unforeseen illness. Should you require additional information, please do not hesitate to contact my office. Thank you kindly!

Sincerely,

A handwritten signature in cursive script, appearing to read "D. Campbell".

Daphne Campbell, RN
State Senator, District 38

CC: Jose Diez-Arguelles, Lynn Wells

A handwritten signature in cursive script, appearing to read "Kelli Stargel", with an "x" written to the left of the signature.

REPLY TO:

- 633 N.E. 167th Street, Suite 1101, North Miami Beach, Florida 33162 (305) 493-6009
- 218 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5038

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

The Florida Senate
State Senator René García
36th District

Please reply to:

District Office:
1490 West 68 Street
Suite # 201
Hialeah, FL 33014
Phone# (305) 364-3100

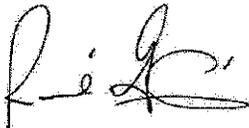
March 15, 2017

The Honorable Kelli Stargel
207 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Stargel

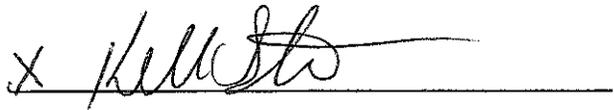
Due to a prearranged commitment, I was unable to attend the Appropriations Subcommittee on Finance and Tax, scheduled for Wednesday, March 15, 2017. Please have this letter serve as my excuse for not attending because I was presenting a bill in another committee. Should you require additional information, please do not hesitate to contact my staff. Thank you!

Sincerely,



Rene Garcia
State Senator
36th District

cc: Jose Diez-Arguelles, Lynn Wells



CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Senate Appropriations Subcommittee on Finance and Tax

Judge:

Started: 3/15/2017 9:36:03 AM

Ends: 3/15/2017 9:38:09 AM

Length: 00:02:07

9:36:02 AM	Sen. Stargel (chair)
9:36:31 AM	S 1156
9:36:42 AM	Sen. Steube
9:36:48 AM	Sen. Stargel
9:37:06 AM	Sen. Steube
9:37:34 AM	Sen. Stargel
9:37:44 AM	Meeting Adjourned