A bill to be entitled

An act relating to tax administration; amending s. 72.011, F.S.; prohibiting taxpayers from submitting certain records in tax proceedings under certain circumstances; providing construction; amending s. 120.80, F.S.; prohibiting taxpayers from submitting certain records in tax proceedings under certain circumstances; providing construction; amending s. 202.34, F.S.; authorizing the Department of Revenue to respond to contact initiated by taxpayers to discuss audits; authorizing taxpayers to provide records and other information to the department; authorizing the department to examine documentation and other information; providing construction; requiring taxpayers to object to premature audits within a certain timeframe; providing that a tolling period is considered lifted under certain circumstances; authorizing the department to adopt rules; amending ss. 202.36, 206.14, 211.125, 212.14, and 220.735, F.S.; creating rebuttable presumptions regarding proposed final agency action by the department; authorizing the department to make assessments and determine taxes using specified methods under certain circumstances; requiring the department to inform the taxpayer of certain information; providing construction; amending s. 206.9931, F.S.; deleting obsolete language; amending s. 212.05, F.S.; clarifying conditions for application of an exemption for sales taxes for certain nonresident purchasers of
boats or aircraft; revising requirements for an affidavit; amending s. 212.13, F.S.; defining the terms “dealer,” “division,” and “transferor”; requiring dealers to maintain specified records; authorizing the department to issue written requests for such records under certain circumstances; authorizing the department to suspend resale certificates issued to dealers under certain circumstances; specifying procedures for suspension of resale certificates; providing construction; specifying procedures for suspension and revocation of licenses of certain dealers under certain circumstances; requiring the department to publish certain information regarding dealers with suspended resale certificates; prohibiting transferors from accepting orders from or delivering alcoholic beverages to dealers with suspended resale certificates within a specified timeframe; authorizing the department to adopt rules; authorizing the department to respond to contact initiated by taxpayers to discuss audits; authorizing taxpayers to provide records and other information; authorizing the department to examine documentation and other information; providing construction; requiring taxpayers to object in writing to premature audits within a certain timeframe; providing that a tolling period is considered lifted under certain circumstances; authorizing the department to adopt rules; amending s. 213.051, F.S.; authorizing the
department to serve subpoenas on businesses registered
with the department; providing construction; amending
s. 215.053, F.S.; requiring the department to publish
certain information regarding dealers with suspended
resale certificates; requiring the department to
update such information; authorizing the department to
adopt rules; amending s. 213.06, F.S.; revising the
period in which, and conditions under which, the
executive director of the department may adopt
emergency rules; providing for an exemption from the
Administrative Procedure Act for any such emergency
rules; specifying conditions regarding the
effectiveness and the renewal of emergency rules;
providing construction; amending s. 213.21, F.S.;
providing for tolling of the statute of limitations
upon the issuance of assessments, rather than final
assessments; authorizing a taxpayer’s liability to be
settled or compromised under certain circumstances;
creating a rebuttable presumption; conforming a
provision to changes made by the act; specifying the
conditions for the department to consider requests to
settle or compromise any tax, interest, penalty, or
other liability; providing construction; amending s.
213.34, F.S.; revising audit procedures of the
department; authorizing the department to adopt rules;
requiring the department to refund any overpayments;
providing construction; amending s. 213.345, F.S.;
specifying conditions under which a period is tolled
during an audit; providing construction; amending s.
Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (c) is added to subsection (1) of section 72.011, Florida Statutes, to read:

72.011 Jurisdiction of circuit courts in specific tax matters; administrative hearings and appeals; time for commencing action; parties; deposits.—

(1) A taxpayer may not submit records pertaining to an assessment or refund claim as evidence in any proceeding under this section if those records were available to, or required to be kept by, the taxpayer and were not timely provided to the Department of Revenue after a written request for the records.
during the audit or protest period and before submission of a
petition for hearing pursuant to chapter 120 or the filing of an
action under paragraph (a), unless the taxpayer demonstrates to
the court or presiding officer good cause for its failure to
previously provide such records to the department. Good cause
may include, but is not limited to, circumstances where a
taxpayer was unable to originally provide records under
extraordinary circumstances as defined in s. 213.21(10)(d)2.

Section 2. Paragraph (b) of subsection (14) of section
120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.—
(14) DEPARTMENT OF REVENUE.—
(b) Taxpayer contest proceedings.—
1. In any administrative proceeding brought pursuant to
this chapter as authorized by s. 72.011(1), the taxpayer shall
be designated the “petitioner” and the Department of Revenue
shall be designated the “respondent,” except that for actions
contesting an assessment or denial of refund under chapter 207,
the Department of Highway Safety and Motor Vehicles shall be
designated the “respondent,” and for actions contesting an
assessment or denial of refund under chapters 210, 550, 561,
562, 563, 564, and 565, the Department of Business and
Professional Regulation shall be designated the “respondent.”

2. In any such administrative proceeding, the applicable
department’s burden of proof, except as otherwise specifically
provided by general law, shall be limited to a showing that an
assessment has been made against the taxpayer and the factual
and legal grounds upon which the applicable department made the
assessment.
3.a. Before Prior to filing a petition under this chapter, the taxpayer shall pay to the applicable department the amount of taxes, penalties, and accrued interest assessed by that department which are not being contested by the taxpayer. Failure to pay the uncontested amount shall result in the dismissal of the action and imposition of an additional penalty of 25 percent of the amount taxed.

b. The requirements of s. 72.011(2) and (3)(a) are jurisdictional for any action under this chapter to contest an assessment or denial of refund by the Department of Revenue, the Department of Highway Safety and Motor Vehicles, or the Department of Business and Professional Regulation.

4. Except as provided in s. 220.719, further collection and enforcement of the contested amount of an assessment for nonpayment or underpayment of any tax, interest, or penalty shall be stayed beginning on the date a petition is filed. Upon entry of a final order, an agency may resume collection and enforcement action.

5. The prevailing party, in a proceeding under ss. 120.569 and 120.57 authorized by s. 72.011(1), may recover all legal costs incurred in such proceeding, including reasonable attorney's fees, if the losing party fails to raise a justiciable issue of law or fact in its petition or response.

6. Upon review pursuant to s. 120.68 of final agency action concerning an assessment of tax, penalty, or interest with respect to a tax imposed under chapter 212, or the denial of a refund of any tax imposed under chapter 212, if the court finds that the Department of Revenue improperly rejected or modified a conclusion of law, the court may award reasonable attorney's fees.
attorney's fees and reasonable costs of the appeal to the prevailing appellant.

7. A taxpayer may not submit records pertaining to an assessment or refund claim as evidence in any proceeding brought pursuant to this chapter as authorized by s. 72.011(1) if those records were available to, or required to be kept by, the taxpayer and were not timely provided to the Department of Revenue after a written request for the records during the audit or protest period and before submission of a petition for hearing under this chapter, unless the taxpayer demonstrates good cause to the presiding officer for its failure to previously provide such records to the department. Good cause may include, but is not limited to, circumstances where a taxpayer was unable to originally provide records under extraordinary circumstances as defined in s. 213.21(10)(d)2.

Section 3. Paragraph (f) is added to subsection (4) of section 202.34, Florida Statutes, and subsection (6) is added to that section, to read:

202.34 Records required to be kept; power to inspect; audit procedure.—
(4)  
(f) Once the notification required by paragraph (a) is issued, the department, at any time, may respond to contact initiated by a taxpayer to discuss the audit, and the taxpayer may provide records or other information, electronically or otherwise, to the department. The department may examine, at any time, documentation and other information voluntarily provided by the taxpayer, its representative, or other parties; information already in the department’s possession; or publicly
available information. The department’s examination of such information does not mean an audit has commenced if the review takes place within 60 days after the notice of intent to conduct an audit. The requirement in paragraph (a) does not limit the department in making initial contact with the taxpayer to confirm receipt of the notification or to confirm the date that the audit will begin. If the taxpayer has not previously waived the 60-day notice period and believes the department commenced the audit prior to the 61st day, the taxpayer must object in writing to the department before the issuance of an assessment or the objection is waived. If the objection is not waived and it is determined that the audit was commenced before the 61st day after the issuance of the notice of intent to audit, the tolling period provided for in s. 213.345 is considered lifted for the number of days equal to the difference between the date the audit commenced and the 61st day after the date of the department’s notice of intent to audit.

(6) The department may adopt rules to administer this section.

Section 4. Paragraph (a) of subsection (4) of section 202.36, Florida Statutes, is amended to read:

202.36 Departmental powers; hearings; distress warrants; bonds; subpoenas and subpoenas duces tecum.—

(4)(a) The department may issue subpoenas or subpoenas duces tecum compelling the attendance and testimony of witnesses and the production of books, records, written materials, and electronically recorded information. Subpoenas must be issued with the written and signed approval of the executive director or his or her designee on a written and sworn application by any
employee of the department. The application must set forth the reason for the application, the name of the person subpoenaed, the time and place of appearance of the witness, and a description of any books, records, or electronically recorded information to be produced, together with a statement by the applicant that the department has unsuccessfully attempted other reasonable means of securing information and that the testimony of the witness or the written or electronically recorded materials sought in the subpoena are necessary for the collection of taxes, penalty, or interest or the enforcement of the taxes levied or administered under this chapter. A subpoena shall be served in the manner provided by law and by the Florida Rules of Civil Procedure and shall be returnable only during regular business hours and at least 20 calendar days after the date of service of the subpoena. Any subpoena to which this subsection applies must identify the taxpayer to whom the subpoena relates and to whom the records pertain and must provide other information to enable the person subpoenaed to locate the records required under the subpoena. The department shall give notice to the taxpayer to whom the subpoena relates within 3 days after the day on which the service of the subpoena is made. Within 14 days after service of the subpoena, the person to whom the subpoena is directed may serve written objection to the inspection or copying of any of the designated materials. If objection is made, the department may not inspect or copy the materials, except pursuant to an order of the circuit court. If an objection is made, the department may petition any circuit court for an order to comply with the subpoena. The subpoena must contain a written notice of the
right to object to the subpoena. Every subpoena served upon the witness or custodian of records must be accompanied by a copy of the provisions of this subsection. If a person refuses to obey a subpoena or subpoena duces tecum, the department may apply to any circuit court of this state to enforce compliance with the subpoena. Witnesses are entitled to be paid a mileage allowance and witness fees as authorized for witnesses in civil cases. The failure of a taxpayer to provide documents available to, or required to be kept by, the taxpayer and requested by a subpoena issued under this section creates a rebuttable presumption that the resulting proposed final agency action by the department, as to the requested documents, is correct and that the requested documents not produced by the taxpayer would be adverse to the taxpayer’s position as to the proposed final agency action. If a taxpayer fails to provide documents requested by a subpoena issued under this section, the department may make an assessment from an estimate based upon the best information then available to it for the taxable period of retail sales of the taxpayer, together with any accrued interest and penalties. The department shall inform the taxpayer of the reason for the estimate and the information and methodology used to derive the estimate. The assessment shall be considered prima facie correct, and the taxpayer shall have the burden of showing any error in it. The presumption and authority to use estimates for the purpose of an assessment under this paragraph do not apply solely because a taxpayer or its representative requests a conference to negotiate the production of a sample of records demanded by a subpoena.

Section 5. Subsection (4) of section 206.14, Florida
Statutes, is amended to read:

206.14 Inspection of records; audits; hearings; forms; rules and regulations.—

(4) If any person unreasonably refuses access to such records, books, papers or other documents, or equipment, or if any person fails or refuses to obey such subpoenas duces tecum or to testify, except for lawful reasons, before the department or any of its authorized agents, the department shall certify the names and facts to the clerk of the circuit court of any county; and the circuit court shall enter such order against such person in the premises as the enforcement of this law and justice requires. The failure of a taxpayer to provide documents available to, or required to be kept by, the taxpayer and requested by a subpoena issued under this section creates a rebuttable presumption that the resulting proposed final agency action by the department, as to the requested documents, is correct and that the requested documents not produced by the taxpayer would be adverse to the taxpayer’s position as to the proposed final agency action. If a taxpayer fails to provide documents requested by a subpoena issued under this section, the department may make an assessment from an estimate of the taxpayer’s liability based upon the best information then available to it. The department shall inform the taxpayer of the reason for the estimate and the information and methodology used to derive the estimate. The assessment shall be considered prima facie correct, and the taxpayer shall have the burden of showing any error in it. The presumption and authority to use estimates for the purpose of an assessment under this subsection do not apply solely because a taxpayer or its representative requests a
conference to negotiate the production of a sample of records demanded by a subpoena.

Section 6. Subsection (1) of section 206.9931, Florida Statutes, is amended to read:

206.9931 Administrative provisions.—

(1) Any person producing in, importing into, or causing to be imported into this state taxable pollutants for sale, use, or otherwise and who is not registered or licensed pursuant to other parts of this chapter is hereby required to register and become licensed for the purposes of this part. Such person shall register as either a producer or importer of pollutants and shall be subject to all applicable registration and licensing provisions of this chapter, as if fully set out in this part and made expressly applicable to the taxes imposed herein, including, but not limited to, ss. 206.02, 206.021, 206.022, 206.025, 206.03, 206.04, and 206.05. For the purposes of this section, registrations required exclusively for this part shall be made within 90 days of July 1, 1986, for existing businesses, or before the first production or importation of pollutants for businesses created after July 1, 1986. The fee for registration shall be $30. Failure to timely register is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 7. Paragraph (b) of subsection (3) of section 211.125, Florida Statutes, is amended to read:

211.125 Administration of law; books and records; powers of the department; refunds; enforcement provisions; confidentiality.—

(3)
(b) The department may have the power to inspect or examine the books, records, or papers of any operator, producer, purchaser, royalty interest owner, taxpayer, or transporter of taxable products which are reasonably required for the purposes of this part and may require such person to testify under oath or affirmation or to answer competent questions touching upon such person’s business or production of taxable products in the state.

1. The department may issue subpoenas to compel third parties to testify or to produce records or other evidence held by them.

2. Any duly authorized representative of the department may administer an oath or affirmation.

3. If any person fails to comply with a request of the department for the inspection of records, fails to give testimony or respond to competent questions, or fails to comply with a subpoena, a circuit court having jurisdiction over such person may, upon application by the department, issue orders necessary to secure compliance. The failure of a taxpayer to provide documents available to, or required to be kept by, the taxpayer and requested by a subpoena issued under this section creates a rebuttable presumption that the resulting proposed final agency action by the department, as to the requested documents, is correct and that the requested documents not produced by the taxpayer would be adverse to the taxpayer’s position as to the proposed final agency action. If a taxpayer fails to provide documents requested by a subpoena issued under this section, the department may make an assessment from an estimate based upon the best information then available to it.
The department shall inform the taxpayer of the reason for the estimate and the information and methodology used to derive the estimate. The assessment shall be considered prima facie correct, and the taxpayer shall have the burden of showing any error in it.

Section 8. Paragraph (a) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making or facilitating remote sales; who rents or furnishes any of the things or services taxable under this chapter; or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

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

(a)1.a. At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The
department shall by rule adopt any nationally recognized
publication for valuation of used motor vehicles as the
reference price list for any used motor vehicle which is
required to be licensed pursuant to s. 320.08(1), (2), (3)(a),
(b), (c), or (e), or (9). If any party to an occasional or
isolated sale of such a vehicle reports to the tax collector a
sales price which is less than 80 percent of the average loan
price for the specified model and year of such vehicle as listed
in the most recent reference price list, the tax levied under
this paragraph shall be computed by the department on such
average loan price unless the parties to the sale have provided
to the tax collector an affidavit signed by each party, or other
substantial proof, stating the actual sales price. Any party to
such sale who reports a sales price less than the actual sales
price is guilty of a misdemeanor of the first degree, punishable
as provided in s. 775.082 or s. 775.083. The department shall
collect or attempt to collect from such party any delinquent
sales taxes. In addition, such party shall pay any tax due and
any penalty and interest assessed plus a penalty equal to twice
the amount of the additional tax owed. Notwithstanding any other
provision of law, the Department of Revenue may waive or
compromise any penalty imposed pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or
aircraft by or through a registered dealer under this chapter to
a purchaser who, at the time of taking delivery, is a
nonresident of this state, does not make his or her permanent
place of abode in this state, and is not engaged in carrying on
in this state any employment, trade, business, or profession in
which the boat or aircraft will be used in this state, or is a
corporation none of the officers or directors of which is a resident of, or makes his or her permanent place of abode in, this state, or is a noncorporate entity that has no individual vested with authority to participate in the management, direction, or control of the entity’s affairs who is a resident of, or makes his or her permanent abode in, this state. For purposes of this exemption, either a registered dealer acting on his or her own behalf as seller, a registered dealer acting as broker on behalf of a seller, or a registered dealer acting as broker on behalf of the nonresident purchaser may be deemed to be the selling dealer. This exemption shall not be allowed unless:

a. The nonresident purchaser removes a qualifying boat, as described in sub-subparagraph f., from this state within 90 days after the date of purchase or extension, or the nonresident purchaser removes a nonqualifying boat or an aircraft from this state within 10 days after the date of purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of the repairs or alterations; or if the aircraft will be registered in a foreign jurisdiction and:

(I) Application for the aircraft’s registration is properly filed with a civil airworthiness authority of a foreign jurisdiction within 10 days after the date of purchase;

(II) The nonresident purchaser removes the aircraft from this state to a foreign jurisdiction within 10 days after the date the aircraft is registered by the applicable foreign airworthiness authority; and

(III) The aircraft is operated in this state solely to remove it from this state to a foreign jurisdiction.
For purposes of this sub-subparagraph, the term “foreign jurisdiction” means any jurisdiction outside of the United States or any of its territories;

b. The nonresident purchaser, within 90 days after the date of departure, provides the department with written proof that the nonresident purchaser licensed, registered, titled, or documented the boat or aircraft outside this state. If such written proof is unavailable, within 90 days the nonresident purchaser must provide proof that the nonresident purchaser applied for such license, title, registration, or documentation. The nonresident purchaser shall forward to the department proof of title, license, registration, or documentation upon receipt;

c. The nonresident purchaser, within 30 days after removing the boat or aircraft from this state Florida, furnishes the department with proof of removal in the form of receipts for fuel, dockage, slippage, tie-down, or hangaring from outside of this state Florida. The information so provided must clearly and specifically identify the boat or aircraft;

d. The selling dealer, within 30 days after the date of sale, provides to the department a copy of the sales invoice, closing statement, bills of sale, and the original affidavit signed by the nonresident purchaser affirming that the nonresident purchaser qualifies for exemption from sales tax pursuant to this subparagraph and attesting that the nonresident purchaser will provide the documentation required to substantiate the exemption claimed under this subparagraph attesting that he or she has read the provisions of this
section;

e. The seller makes a copy of the affidavit a part of his or her record for as long as required by s. 213.35; and

f. Unless the nonresident purchaser of a boat of 5 net tons of admeasurement or larger intends to remove the boat from this state within 10 days after the date of purchase or when the boat is repaired or altered, within 20 days after completion of the repairs or alterations, the nonresident purchaser applies to the selling dealer for a decal which authorizes 90 days after the date of purchase for removal of the boat. The nonresident purchaser of a qualifying boat may apply to the selling dealer within 60 days after the date of purchase for an extension decal that authorizes the boat to remain in this state for an additional 90 days, but not more than a total of 180 days, before the nonresident purchaser is required to pay the tax imposed by this chapter. The department is authorized to issue decals in advance to dealers. The number of decals issued in advance to a dealer shall be consistent with the volume of the dealer’s past sales of boats which qualify under this sub-subparagraph. The selling dealer or his or her agent shall mark and affix the decals to qualifying boats in the manner prescribed by the department, before delivery of the boat.

(I) The department is hereby authorized to charge dealers a fee sufficient to recover the costs of decals issued, except the extension decal shall cost $425.

(II) The proceeds from the sale of decals will be deposited into the administrative trust fund.

(III) Decals shall display information to identify the boat as a qualifying boat under this sub-subparagraph, including, but
not limited to, the decal’s date of expiration.

(IV) The department is authorized to require dealers who purchase decals to file reports with the department and may prescribe all necessary records by rule. All such records are subject to inspection by the department.

(V) Any dealer or his or her agent who issues a decal falsely, fails to affix a decal, mismarks the expiration date of a decal, or fails to properly account for decals will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VI) Any nonresident purchaser of a boat who removes a decal before permanently removing the boat from this the state, or defaces, changes, modifies, or alters a decal in a manner affecting its expiration date before its expiration, or who causes or allows the same to be done by another, will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VII) The department is authorized to adopt rules necessary to administer and enforce this subparagraph and to publish the necessary forms and instructions.

(VIII) The department is hereby authorized to adopt
emergency rules pursuant to s. 120.54(4) to administer and enforce the provisions of this subparagraph.

If the nonresident purchaser fails to remove the qualifying boat from this state within the maximum 180 days after purchase or a nonqualifying boat or an aircraft from this state within 10 days after purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or aircraft to return to this state within 6 months after from the date of departure, except as provided in s. 212.08(7)(fff), or if the nonresident purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the nonresident purchaser is liable for use tax on the cost price of the boat or aircraft and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2). The maximum 180-day period following the sale of a qualifying boat tax-exempt to a nonresident may not be tolled for any reason.

Section 9. Subsections (2) and (5) of section 212.13, Florida Statutes, are amended, and subsection (7) is added to that section, to read:

212.13 Records required to be kept; power to inspect; audit procedure.—

(2)(a) Each dealer, as defined in this chapter, shall secure, maintain, and keep as long as required by s. 213.35 a complete record of tangible personal property or services received, used, sold at retail, distributed or stored, leased or
rented by said dealer, together with invoices, bills of lading, gross receipts from such sales, and other pertinent records and papers as may be required by the department for the reasonable administration of this chapter. All such records must be made available to the department at reasonable times and places and by reasonable means, including in an electronic format when so kept by the dealer. Any dealer subject to this chapter who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. If, however, any subsequent offense involves intentional destruction of such records with an intent to evade payment of or deprive the state of any tax revenues, such subsequent offense is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(b)1. As used in this paragraph, the term:
   a. “Dealer” means a dealer, as defined in s. 212.06(2), which is licensed under chapter 561.
   b. “Division” means the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation.
   c. “Transferor” means an entity or person, licensed under chapter 561, who sells and delivers alcoholic beverages to a dealer for purposes of resale.

2. Dealers shall maintain records of all monthly sales and all monthly purchases of alcoholic beverages and produce such records for inspection by the department. During the course of an audit, if the department has made a formal demand for such records and a dealer has failed to comply with such a demand, the department may issue a written request for such records to
the dealer, allowing the dealer an additional 20 days to provide
the requested records or show reasonable cause why the records
cannot be produced. If the dealer fails to produce the requested
records or show reasonable cause why the records cannot be
produced, the department may issue a notice of intent to suspend
the dealer’s resale certificate. The dealer shall then have 20
days to file a petition with the department challenging the
proposed action pursuant to s. 120.569. If the dealer fails to
timely file a petition or the department prevails in a
proceeding challenging the notice, the department shall suspend
the resale certificate.

3. If a dealer’s resale certificate is suspended under this
subsection in the course of the dealer’s first audit before the
department for sales and use tax, the failure of a dealer to
comply is deemed sufficient cause under s. 561.29(1)(a) for the
division to suspend the dealer’s license and the department
shall promptly notify the division and the dealer of such
failure for further appropriate action by the division. The
division shall lift the suspension of the license and the
department shall lift the suspension of the resale certificate
if the dealer provides the necessary records to conduct the
audit prior to issuance of an estimated assessment, posts a bond
with the department in the amount of an estimated assessment to
ensure payment of the assessment, or fully pays any tax,
penalties, and interest owed.

4. If a dealer’s resale certificate is suspended under this
subsection and the audit is not the dealer’s first audit before
the department for sales and use tax, such failure is sufficient
cause under s. 561.29(1)(a) for the division to revoke the
639 dealer’s license and the department shall promptly notify the
division and the dealer of such failure for further appropriate
action by the division.

5. The department shall notify the division when a dealer’s
resale certificate is suspended and shall publish a list of
dealers whose resale certificates have been suspended as
authorized by s. 213.053(21). The division shall include notice
of such suspension in its license verification database or
provide a link to the department’s published list from the
division’s license verification page.

6. A transferor may not accept orders from or deliver
alcoholic beverages to a dealer more than 7 days, inclusive of
any Saturday, Sunday, or legal holiday, after the date the
department publishes the list under subparagraph 5. identifying
that the dealer’s resale certificate has been suspended.

7. A transferor who sells alcoholic beverages to a dealer
whose resale certificate has been suspended is not responsible
for any tax, penalty, or interest due if the alcoholic beverages
are delivered no more than 7 days, inclusive of any Saturday,
Sunday, or legal holiday, after the date of publication of the
suspension.

8. The department may adopt rules to implement this
paragraph.

(5)(a) The department shall send written notification at
least 60 days before prior to the date an auditor is scheduled
to begin an audit, informing the taxpayer of the audit. The
department is not required to give 60 days’ prior notification
of a forthcoming audit in any instance in which the taxpayer
requests an emergency audit.
(b) Such written notification must **shall** contain:

1. The approximate date on which the auditor is scheduled to begin the audit.

2. A reminder that all of the records, receipts, invoices, resale certificates, and related documentation of the taxpayer must be made available to the auditor.

3. Any other requests or suggestions the department may deem necessary.

(c) Only records, receipts, invoices, resale certificates, and related documentation that **which** are available to the auditor when such audit begins are **shall be** deemed acceptable for the purposes of conducting such audit. A resale certificate containing a date **before** prior to the date the audit commences is **shall be** deemed acceptable documentation of the specific transaction or transactions which occurred in the past, for the purpose of conducting an audit.

(d) The provisions of this chapter concerning fraudulent or improper records, receipts, invoices, resale certificates, and related documentation **shall** apply when conducting any audit.

(e) The requirement in paragraph (a) of 60 days’ written notification does not apply to the distress or jeopardy situations referred to in s. 212.14 or s. 212.15.

(f) Once the notification required by paragraph (a) is issued, the department, at any time, may respond to contact initiated by a taxpayer to discuss the audit, and the taxpayer may provide documentation or other information, electronically or otherwise, to the department. The department may examine, at any time, documentation and other information voluntarily provided by the taxpayer, its representative, or other parties;
information already in the department’s possession; or publicly
available information. The department’s examination of such
information does not mean an audit has commenced if the review
takes place within 60 days after the notice of intent to conduct
an audit. The requirement in paragraph (a) does not limit the
department in making initial contact with the taxpayer to
confirm receipt of the notification or to confirm the date that
the audit will begin. If the taxpayer has not previously waived
the 60-day notice period and believes the department commenced
the audit prior to the 61st day, the taxpayer must object in
writing to the department before the issuance of an assessment
or else the objection is waived. If the objection is not waived
and it is determined that the audit was commenced before the
61st day after the issuance of the notice of intent to audit,
the tolling period provided for in s. 213.345 is considered
lifted for the number of days equal to the difference between
the date the audit commenced and the 61st day after the date of
the department’s notice of intent to audit.

(7) The department may adopt rules to administer this
section.

Section 10. Paragraph (a) of subsection (7) of section
212.14, Florida Statutes, is amended to read:

212.14 Departmental powers; hearings; distress warrants;
bonds; subpoenas and subpoenas duces tecum.—

(7)(a) For purposes of collection and enforcement of taxes,
penalties, and interest levied under this chapter, the
department may issue subpoenas or subpoenas duces tecum
compelling the attendance and testimony of witnesses and the
production of books, records, written materials, and
electronically recorded information. Subpoenas shall be issued with the written and signed approval of the executive director or his or her designee on written and sworn application by any employee of the department. The application must set forth the reason for the application, the name of the person subpoenaed, the time and place of appearance of the witness, and a description of any books, records, or electronically recorded information to be produced, together with a statement by the applicant that the department has unsuccessfully attempted other reasonable means of securing information and that the testimony of the witness or the written or electronically recorded materials sought in the subpoena are necessary for the collection of taxes, penalty, or interest or the enforcement of the taxes levied under this chapter. A subpoena must be served in the manner provided by law and by the Florida Rules of Civil Procedure and is returnable only during regular business hours and at least 20 calendar days after the date of service of the subpoena. Any subpoena to which this subsection applies must identify the taxpayer to whom the subpoena relates and to whom the records pertain and must provide other information to enable the person subpoenaed to locate the records required under the subpoena. The department shall give notice to the taxpayer to whom the subpoena relates within 3 days after the day on which the service of the subpoena is made. Within 14 days after service of the subpoena, the person to whom the subpoena is directed may serve written objection to inspection or copying of any of the designated materials. If objection is made, the department is not entitled to inspect and copy the materials, except pursuant to an order of
the circuit court. If an objection is made, the department may
petition any circuit court for an order to comply with the
subpoena. The subpoena must shall contain a written notice of
the right to object to the subpoena. Every subpoena served upon
the witness or records custodian must be accompanied by a copy
of the provisions of this subsection. If a person refuses to
obey a subpoena or subpoena duces tecum, the department may
apply to any circuit court of this state to enforce compliance
with the subpoena. Witnesses must shall be paid mileage and
witness fees as authorized for witnesses in civil cases. The
failure of a taxpayer to provide documents available to, or
required to be kept by, the taxpayer and requested by a subpoena
issued under this section creates a rebuttable presumption that
the resulting proposed final agency action by the department, as
to the requested documents, is correct and that the requested
documents not produced by the taxpayer would be adverse to the
taxpayer’s position as to the proposed final agency action. If a
taxpayer fails to provide documents requested by a subpoena
issued under this section, the department may make an assessment
from an estimate based upon the best information then available
to it for the taxable period of retail sales of the taxpayer,
together with any accrued interest and penalties. The department
shall inform the taxpayer of the reason for the estimate and the
information and methodology used to derive the estimate. The
assessment shall be considered prima facie correct, and the
taxpayer shall have the burden of showing any error in it. The
presumption and authority to use estimates for the purpose of an
assessment under this paragraph do not apply solely because a
taxpayer or its representative requests a conference to

CODING: Words stricken are deletions; words underlined are additions.
negotiate the production of a sample of records demanded by a
subpoena.
Section 11. Section 213.051, Florida Statutes, is amended
to read:
213.051 Service of subpoenas.—
(1) For the purpose of administering and enforcing the
provisions of the revenue laws of this state, the executive
director of the Department of Revenue, or any of his or her
assistants designated in writing by the executive director, may
shall be authorized to serve subpoenas and subpoenas duces tecum
issued by the state attorney relating to investigations
concerning the taxes enumerated in s. 213.05.
(2) In addition to the procedures for service prescribed by
chapter 48, the department may serve subpoenas it issues
pursuant to ss. 202.36, 206.14, 211.125, 212.14, and 220.735
upon any business registered with the department at the address
on file with the department if it received correspondence from
the business from that address within 30 days before issuance of
the subpoena or if the address is listed with the Department of
State Division of Corporations as a principal or business
address. If a business’ address is not in this state, service is
made upon proof of delivery by certified or registered mail or
under the notice provisions of s. 213.0537.
Section 12. Present subsections (21) and (22) of section
213.053, Florida Statutes, are redesignated as subsections (22)
and (23), respectively, and a new subsection (21) is added to
that section, to read:
213.053 Confidentiality and information sharing.—
(21)(a) The department shall publish a list of dealers
whose resale certificates have been suspended pursuant to s. 212.13(2)(b). The list may contain the name of the dealer, including the name under which the dealer does business; the address of the dealer; the dealer’s employer identification number or other taxpayer identification number; and the date on which the dealer was added to the list.

(b) The department shall update the list daily as needed to reflect additions to and deletions from the list.

(c) The department may adopt rules to administer this subsection.

Section 13. Section 213.06, Florida Statutes, is amended to read:

213.06 Rules of department; circumstances requiring emergency rules.—

(1) The Department of Revenue may has the authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of the revenue laws.

(2) The executive director of the department may adopt emergency rules pursuant to s. 120.54 on behalf of the department when the effective date of a legislative change occurs sooner than 120 60 days after the close of a legislative session in which enacted or after the Governor approves or fails to veto the legislative change, whichever is later, and the change affects a tax rate or a collection or reporting procedure which affects a substantial number of dealers or persons subject to the tax change or procedure. The Legislature finds that such circumstances qualify as an exception to the prerequisite of a finding of immediate danger to the public health, safety, or welfare as set forth in s. 120.54(4)(a) and qualify as
circumstances requiring an emergency rule. Emergency rules adopted under this subsection are exempt from s. 120.54(4)(c), remain in effect for 6 months or until replaced by rules adopted under the nonemergency rulemaking procedures of the Administrative Procedure Act, and may be renewed for no more than 3 additional 6-month periods during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) The grants of rulemaking authority in subsections (1) and (2) are sufficient to allow the department to adopt rules implementing all revenue laws administered by the department. Each revenue law administered by the department is an enabling statute authorizing the department to implement it, regardless of whether the enabling statute contains its own grant of rulemaking authority.

Section 14. Paragraph (b) of subsection (1) and paragraph (a) of subsection (3) of section 213.21, Florida Statutes, are amended, and subsections (11) and (12) are added to that section, to read:

213.21 Informal conferences; compromises.—

(1)

(b) The statute of limitations upon the issuance of final assessments and the period for filing a claim for refund as required by s. 215.26(2) for any transactions occurring during the audit period shall be tolled during the period in which the taxpayer is engaged in a procedure under this section.

(3)(a) A taxpayer’s liability for any tax or interest specified in s. 72.011(1) may be compromised by the department upon the grounds of doubt as to liability for or collectibility
of such tax or interest. A taxpayer’s liability for interest under any of the chapters specified in s. 72.011(1) shall be settled or compromised in whole or in part whenever or to the extent that the department determines that the delay in the determination of the amount due is attributable to the action or inaction of the department. A taxpayer’s liability for penalties under any of the chapters specified in s. 72.011(1) greater than 25 percent of the tax must be settled or compromised if it is determined by the department that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. In addition, a taxpayer’s liability for penalties under any of the chapters specified in s. 72.011(1) up to and including 25 percent of the tax may be settled or compromised if the department determines that reasonable cause exists and the penalties greater than 25 percent of the tax were compromised because the noncompliance is not due to willful negligence, willful neglect, or fraud. There is a rebuttable presumption that a taxpayer’s noncompliance is due to willful negligence, willful neglect, or fraud when adequate records as requested by the department are not provided to the department before the issuance of an assessment. The presumption may be rebutted by a showing of reasonable cause why adequate records as requested were not provided or were unavailable to the taxpayer. The facts and circumstances are subject to de novo review to determine the existence of reasonable cause in any administrative proceeding or judicial action challenging an assessment of penalty under any of the chapters specified in s. 72.011(1). A taxpayer who establishes reasonable reliance on the written advice issued by the
department to the taxpayer is will be deemed to have shown reasonable cause for the noncompliance. In addition, a taxpayer’s liability for penalties under any of the chapters specified in s. 72.011(1) in excess of 25 percent of the tax shall be settled or compromised if the department determines that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. The department shall maintain records of all compromises, and the records shall state the basis for the compromise. The records of compromise under this paragraph are shall not be subject to disclosure pursuant to s. 119.07(1) and are shall be considered confidential information governed by the provisions of s. 213.053.

(11) Following the expiration of time for a taxpayer to challenge an assessment or a denial of a refund as provided in s. 72.011, the department may consider a request to settle or compromise any tax, interest, penalty, or other liability under this section if the taxpayer demonstrates that the failure to initiate a timely challenge was due to a qualified event that directly impacted compliance with that section. For purposes of this subsection, a qualified event is limited to the occurrence of events during an audit or the expired protest period which were beyond the control of the taxpayer, including, but not limited to, the death or life-threatening injury or illness of the taxpayer or an immediate family member of the taxpayer; the death or life-threatening injury or illness of the responsible party that controlled, managed, or directed the affected business entity; acts of war or terrorism; natural disasters; fire; or other catastrophic loss. The department may not
consider a request received more than 180 days after the expiration of time allowed under s. 72.011.

(12) Any decision by the department regarding a taxpayer’s request to compromise or settle a liability under this section is not a final order subject to review under chapter 120.

Section 15. Section 213.34, Florida Statutes, is amended to read:

213.34 Authority to audit.—

(1) The Department of Revenue may have the authority to audit and examine the accounts, books, or records of all persons who are subject to a revenue law made applicable to this chapter, or otherwise placed under the control and administration of the department, for the purpose of ascertaining the correctness of any return which has been filed or payment which has been made, or for the purpose of making a return where none has been made.

(2) The department, or its duly authorized agents, may inspect such books and records necessary to ascertain a taxpayer’s compliance with the revenue laws of this state, provided that the department’s power to make an assessment or grant a refund has not terminated under s. 95.091(3).

(a) During the course of an audit, but before the issuance of an assessment other than a jeopardy assessment, the department shall issue to the taxpayer a notice explaining the audit findings. No later than 30 days after the issuance of the notice, the taxpayer may request in writing an exit conference at a mutually agreeable date and time with the department’s audit staff to discuss the audit findings. The exit conference must be conducted no later than 30 days after a request for the
conference, unless the taxpayer and the department enter into an
agreement to extend the audit tolling period pursuant to s.
213.23. The taxpayer shall be given an opportunity at or before
the exit conference to provide additional information and
documents to the department to rebut the audit findings. Upon
the mutual written agreement between the department and the
taxpayer to extend the audit tolling period pursuant to s.
213.23, the exit conference may be continued to allow the
taxpayer additional time to provide information and documents to
the department. The department shall review any information
provided by the taxpayer and, if the department revises the
audit findings, a copy of the revised audit findings must be
provided to the taxpayer. Such revision of the audit findings
does not provide a right to any additional conference.

(b) If an exit conference is timely requested in writing,
the limitations in s. 95.091(3) are tolled an additional 60
days. If the department fails to offer a taxpayer the
opportunity to hold an exit conference despite a timely written
request, the limitations period in s. 95.091(3) may not be
tolled for the additional 60 days. If the assessment is issued
outside of the limitations period, the assessment must be
reduced by the amount of those taxes, penalties, and interest
for reporting periods outside of the limitations period, as
modified by any other tolling or extension provisions.

(c) If a request for an exit conference is not timely made,
the right to a conference is waived. A taxpayer may also
affirmatively waive its right to an exit conference. Failure to
hold an exit conference does not preclude the department from
issuing an assessment.
(d) The department may adopt rules to implement this subsection.

(3) The department may correct by credit or refund any overpayment of tax, penalty, or interest revealed by an audit and shall make assessment of any deficiency in tax, penalty, or interest determined to be due.

(4) Notwithstanding the provisions of s. 215.26, the department shall offset the overpayment of any tax during an audit period against a deficiency of any tax, penalty, or interest determined to be due during the same audit period.

(5) After the application of subsection (4), if the department’s audit finds that the tax paid is more than the correct amount, the department must refund the overpayment that is within the applicable period provided by s. 215.26. Such action by the department does not prevent a taxpayer from challenging the amount of the refund pursuant to chapters 72 and 120 or applying for a refund of additional tax within the applicable period.

Section 16. Section 213.345, Florida Statutes, is amended to read:

213.345 Tolling of periods during an audit.—The limitations in s. 95.091(3) and the period for filing a claim for refund as required by s. 215.26(2) are shall be tolled for a period of 1 year if the Department of Revenue has, on or after July 1, 1999, issued a notice of intent to conduct an audit or investigation of the taxpayer’s account within the applicable period of time. The 1-year period is tolled upon receipt of written objections to the subpoena and for the entire pendency of any action that seeks an order to enforce compliance with or to challenge any
subpoena issued by the department compelling the attendance and testimony of witnesses and the production of books, records, written materials, and electronically recorded information. The department must commence an audit within 120 days after it issues a notice of intent to conduct an audit, unless the taxpayer requests a delay. If the taxpayer does not request a delay and the department does not begin the audit within 120 days after issuing the notice, the tolling period terminates unless the taxpayer and the department enter into an agreement to extend the period pursuant to s. 213.23. If the department issues a notice explaining its audit findings under s. 213.34(2)(a) based on an estimate because the taxpayer has failed or refuses to provide records, the audit will be deemed to have commenced for purposes of this section. In the event the department issues an assessment beyond the tolling period, the assessment will be considered late and the assessment shall be reduced by the amount of those taxes, penalties, and interest for reporting periods outside of the limitations period, as modified by any other tolling or extension provisions.

Section 17. Subsections (1), (3), and (6) of section 213.67, Florida Statutes, are amended to read:

213.67 Garnishment.—

(1) If a person is delinquent in the payment of any taxes, penalties, and interest, additional daily accrued interest, costs, and fees owed to the department, the executive director or his or her designee may give notice of the amount of such delinquency by certified or registered mail, by personal service, or by electronic means, including, but not limited to,
facsimile transmissions, electronic data interchange, or use of
the Internet, to all persons having in their possession or under
their control any credits or personal property, exclusive of
wages, belonging to the delinquent taxpayer, or owing any debts
to such delinquent taxpayer at the time of receipt by them of
such notice. Thereafter, any person who has been notified may
not transfer or make any other disposition of such credits,
other personal property, or debts until the executive director
or his or her designee consents to a transfer or disposition or
until 60 days after the receipt of such notice. However, the
credits, other personal property, or debts that exceed the
delinquent amount stipulated in the notice are not subject to
this section, wherever held, if the taxpayer does not have a
prior history of tax delinquencies. If during the effective
period of the notice to withhold, any person so notified makes
any transfer or disposition of the property or debts required to
be withheld under this section, he or she is liable to the state
for any indebtedness owed to the department by the person with
respect to whose obligation the notice was given to the extent
of the value of the property or the amount of the debts thus
transferred or paid if, solely by reason of such transfer or
disposition, the state is unable to recover the indebtedness of
the person with respect to whose obligation the notice was
given. If the delinquent taxpayer contests the intended levy in
circuit court or under chapter 120, the notice under this
section remains effective until that final resolution of the
contest. Any financial institution receiving such notice
maintains will maintain a right of setoff for any transaction
involving a debit card occurring on or before the date of
receipt of such notice.

(3) During the last 30 days of the 60-day period set forth in subsection (1), the executive director or his or her designee may levy upon such credits, other personal property, or debts. The levy must be accomplished by delivery of a notice of levy by certified or registered mail, by personal service, or by electronic means, including, but not limited to, facsimile transmission or electronic data exchange. Upon receipt of the notice of levy, which the person possessing the credits, other personal property, or debts shall transfer them to the department or pay to the department the amount owed to the delinquent taxpayer.

(6)(a) Levy may be made under subsection (3) upon credits, other personal property, or debt of any person with respect to any unpaid tax, penalties, and interest, additional daily accrued interest, costs, and fees only after the executive director or his or her designee has notified such person in writing of the intention to make such levy.

(b) No less than 30 days before the day of the levy, the notice of intent to levy required under paragraph (a) must shall be given in person or sent by certified or registered mail to the person’s last known address.

(c) The notice required in paragraph (a) must include a brief statement that sets forth in simple and nontechnical terms:

1. The provisions of this section relating to levy and sale of property;

2. The procedures applicable to the levy under this section;
3. The administrative and judicial appeals available to the taxpayer with respect to such levy and sale, and the procedures relating to such appeals; and

4. Any The alternatives, if any, available to taxpayers which could prevent levy on the property.

Section 18. Section 220.42, Florida Statutes, is amended to read:

220.42 Methods of accounting.—

(1) For purposes of this code, a taxpayer’s method of accounting must shall be the same as such taxpayer’s method of accounting for federal income tax purposes, except as provided in subsection (3). If no method of accounting has been regularly used by a taxpayer, net income for purposes of this code must shall be computed by the method that as in the opinion of the department determines most fairly reflects income.

(2) If a taxpayer’s method of accounting is changed for federal income tax purposes, the taxpayer’s method of accounting for purposes of this code must shall be similarly changed.

(3) Any taxpayer which has elected for federal income tax purposes to report any portion of its income on the completed contract method of accounting under Treasury Regulation 1.451-3(b)(2) may elect to return the income so reported on the percentage of completion method of accounting under Treasury Regulation 1.451-3(b)(1), provided the taxpayer regularly maintains its books of account and reports to its shareholders on the percentage of completion method. The election provided by this subsection shall be allowed only if it is made, in such manner as the department may prescribe, not later than the due date, including any extensions thereof, for filing a return for
the taxpayer’s first taxable year under this code in which a portion of its income is returned on the completed contract method of accounting for federal tax purposes. An election made pursuant to this subsection shall apply to all subsequent taxable years of the taxpayers unless the department consents in writing to its revocation.

Section 19. Subsection (4) is added to section 220.735, Florida Statutes, to read:

220.735 Production of witnesses and records.—

(4) The failure of a taxpayer to provide documents available to, or required to be kept by, the taxpayer and requested by a subpoena issued under this section creates a rebuttable presumption that the resulting proposed final agency action by the department, as to the requested documents, is correct and that the requested documents not produced by the taxpayer would be adverse to the taxpayer’s position as to the proposed final agency action. If a taxpayer fails to provide documents requested by a subpoena issued under this section, the department may determine the amount of tax due according to its best judgment and may issue a notice of deficiency to the taxpayer, setting forth the amount of tax, interest, and any penalties proposed to be assessed. The department shall inform the taxpayer of the reason for the estimate and the information and methodology used to derive the estimate. The assessment shall be considered prima facie correct, and the taxpayer shall have the burden of showing any error in it.

Section 20. Paragraph (e) of subsection (3) of section 443.131, Florida Statutes, is amended to read:

443.131 Contributions.—
(3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT EXPENSE.

(e) Assignment of variations from the standard rate.—

1. As used in this paragraph, the terms “total benefit payments,” “benefits paid to an individual,” and “benefits charged to the employment record of an employer” mean the amount of benefits paid to individuals multiplied by:

   a. For benefits paid before prior to July 1, 2007, 1.
   b. For benefits paid during the period beginning on July 1, 2007, and ending March 31, 2011, 0.90.
   c. For benefits paid after March 31, 2011, 1.
   d. For benefits paid during the period beginning April 1, 2020, and ending December 31, 2020, 0.
   e. For benefits paid during the period beginning January 1, 2021, and ending June 30, 2021, 1, except as otherwise adjusted in accordance with paragraph (f).

2. For the calculation of contribution rates effective January 1, 2012, and thereafter:

   a. The tax collection service provider shall assign a variation from the standard rate of contributions for each calendar year to each eligible employer. In determining the contribution rate, varying from the standard rate to be assigned each employer, adjustment factors computed under sub-sub-

      subparagraphs (I)-(IV) are added to the benefit ratio. This addition shall be accomplished in two steps by adding a variable adjustment factor and a final adjustment factor. The sum of these adjustment factors computed under sub-sub-subparagraphs (I)-(IV) shall first be algebraically summed. The sum of these adjustment factors shall next be divided by a gross benefit
ratio determined as follows: Total benefit payments for the 3-year period described in subparagraph (b)3. are charged to employers eligible for a variation from the standard rate, minus excess payments for the same period, divided by taxable payroll entering into the computation of individual benefit ratios for the calendar year for which the contribution rate is being computed. The ratio of the sum of the adjustment factors computed under sub-sub-subparagraphs (I)-(IV) to the gross benefit ratio is multiplied by each individual benefit ratio that is less than the maximum contribution rate to obtain variable adjustment factors; except that if the sum of an employer’s individual benefit ratio and variable adjustment factor exceeds the maximum contribution rate, the variable adjustment factor is reduced in order for the sum to equal the maximum contribution rate. The variable adjustment factor for each of these employers is multiplied by his or her taxable payroll entering into the computation of his or her benefit ratio. The sum of these products is divided by the taxable payroll of the employers who entered into the computation of their benefit ratios. The resulting ratio is subtracted from the sum of the adjustment factors computed under sub-sub-subparagraphs (I)-(IV) to obtain the final adjustment factor. The variable adjustment factors and the final adjustment factor must be computed to five decimal places and rounded to the fourth decimal place. This final adjustment factor is added to the variable adjustment factor and benefit ratio of each employer to obtain each employer’s contribution rate. An employer’s contribution rate may not, however, be rounded to less than 0.1 percent. Regardless of whether subparagraph 5. is
repealed as provided in subparagraph 6., in determining the
collection rate for rates effective January 1, 2021, through
December 31, 2025, varying from the standard rate that would
otherwise to be assigned, the computation shall exclude any
benefit that is excluded by the multipliers under subparagraph
(b)2. and subparagraph 1. and The computation of the
contribution rate, varying from the standard rate to be
assigned, shall also exclude any benefit paid as a result of a
governmental order related to COVID-19 to close or reduce
capacity of a business before the date of the repeal. In
addition, the contribution rate for the 2021 and 2022 calendar
years shall be calculated without the application of the
positive adjustment factor in sub-sub-subparagraph (III).

(I) An adjustment factor for noncharge benefits is computed
to the fifth decimal place and rounded to the fourth decimal
place by dividing the amount of noncharge benefits during the 3-
year period described in subparagraph (b)3. by the taxable
payroll of employers eligible for a variation from the standard
rate who have a benefit ratio for the current year which is less
than the maximum contribution rate. For purposes of computing
this adjustment factor, the taxable payroll of these employers
is the taxable payrolls for the 3 years ending June 30 of the
current calendar year as reported to the tax collection service
provider by September 30 of the same calendar year. As used in
this sub-sub-subparagraph, the term “noncharge benefits” means
benefits paid to an individual, as adjusted pursuant to
subparagraph (b)2. and subparagraph 1., from the Unemployment
Compensation Trust Fund which were not charged to the employment
record of any employer, but excluding any benefit paid as a
result of a governmental order related to COVID-19 to close or reduce capacity of a business.

(II) An adjustment factor for excess payments is computed to the fifth decimal place, and rounded to the fourth decimal place by dividing the total excess payments during the 3-year period described in subparagraph (b)3. by the taxable payroll of employers eligible for a variation from the standard rate who have a benefit ratio for the current year which is less than the maximum contribution rate. For purposes of computing this adjustment factor, the taxable payroll of these employers is the same figure used to compute the adjustment factor for noncharge benefits under sub-sub-subparagraph (I). As used in this sub-subparagraph, the term “excess payments” means the amount of benefits charged to the employment record of an employer, as adjusted pursuant to subparagraph (b)2. and subparagraph 1., during the 3-year period described in subparagraph (b)3., but excluding any benefit paid as a result of a governmental order related to COVID-19 to close or reduce capacity of a business, less the product of the maximum contribution rate and the employer’s taxable payroll for the 3 years ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of the same calendar year. As used in this sub-sub-subparagraph, the term “total excess payments” means the sum of the individual employer excess payments for those employers that were eligible for assignment of a contribution rate different from the standard rate.

(III) With respect to computing a positive adjustment factor:

(A) Beginning January 1, 2012, if the balance of the
Unemployment Compensation Trust Fund on September 30 of the calendar year immediately preceding the calendar year for which the contribution rate is being computed is less than 4 percent of the taxable payrolls for the year ending June 30 as reported to the tax collection service provider by September 30 of that calendar year, a positive adjustment factor shall be computed. The positive adjustment factor is computed annually to the fifth decimal place and rounded to the fourth decimal place by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year into a sum equal to one-fifth of the difference between the balance of the fund as of September 30 of that calendar year and the sum of 5 percent of the total taxable payrolls for that year. The positive adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of September 30 of the year immediately preceding the effective date of the contribution rate equals or exceeds 4 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year.

(B) Beginning January 1, 2018, and for each year thereafter, the positive adjustment shall be computed by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of September 30 of that calendar year and
and the sum of 5 percent of the total taxable payrolls for that year. The positive adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of September 30 of the year immediately preceding the effective date of the contribution rate equals or exceeds 4 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year.

(IV) If, beginning January 1, 2015, and each year thereafter, the balance of the Unemployment Compensation Trust Fund as of September 30 of the year immediately preceding the calendar year for which the contribution rate is being computed exceeds 5 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year, a negative adjustment factor must be computed. The negative adjustment factor shall be computed annually beginning on January 1, 2015, and each year thereafter, to the fifth decimal place and rounded to the fourth decimal place by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of the calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of September 30 of the current calendar year and 5 percent of the total taxable payrolls of that year. The negative adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of September 30 of the year.
immediately preceding the effective date of the contribution rate is less than 5 percent, but more than 4 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year. The negative adjustment authorized by this section is suspended in any calendar year in which repayment of the principal amount of an advance received from the federal Unemployment Compensation Trust Fund under 42 U.S.C. s. 1321 is due to the Federal Government.

(V) The maximum contribution rate that may be assigned to an employer is 5.4 percent, except employers participating in an approved short-time compensation plan may be assigned a maximum contribution rate that is 1 percent greater than the maximum contribution rate for other employers in any calendar year in which short-time compensation benefits are charged to the employer’s employment record.

(VI) As used in this subsection, “taxable payroll” shall be determined by excluding any part of the remuneration paid to an individual by an employer for employment during a calendar year in excess of the first $7,000. Beginning January 1, 2012, “taxable payroll” shall be determined by excluding any part of the remuneration paid to an individual by an employer for employment during a calendar year as described in s. 443.1217(2). For the purposes of the employer rate calculation that will take effect in January 1, 2012, and in January 1, 2013, the tax collection service provider shall use the data available for taxable payroll from 2009 based on excluding any part of the remuneration paid to an individual by an employer for employment during a calendar year in excess of the first...
$7,000, and from 2010 and 2011, the data available for taxable payroll based on excluding any part of the remuneration paid to an individual by an employer for employment during a calendar year in excess of the first $8,500.

b. If the transfer of an employer’s employment record to an employing unit under paragraph (g) which, before the transfer, was an employer, the tax collection service provider shall recompute a benefit ratio for the successor employer based on the combined employment records and reassign an appropriate contribution rate to the successor employer effective on the first day of the calendar quarter immediately after the effective date of the transfer.

3. The tax collection service provider shall reissue rates for the 2021 calendar year. However, an employer shall continue to timely file its employer’s quarterly reports and pay the contributions due in a timely manner in accordance with the rules of the Department of Economic Opportunity. The Department of Revenue shall post the revised rates on its website to enable employers to securely review the revised rates. For contributions for the first quarter of the 2021 calendar year, if any employer remits to the tax collection service provider an amount in excess of the amount that would be due as calculated pursuant to this paragraph, the tax collection service provider shall refund the excess amount from the amount erroneously collected. Notwithstanding s. 443.141(6), refunds issued through August 31, 2021, for first quarter 2021 contributions must be paid from the General Revenue Fund.

4. The tax collection service provider shall calculate and assign contribution rates effective January 1, 2022, through
December 31, 2022, excluding any benefit charge that is excluded by the multipliers under subparagraph (b)2. and subparagraph 1.; without the application of the positive adjustment factor in sub-sub subparagraph 2.a.(III); and without the inclusion of any benefit charge directly related to COVID-19 as a result of a governmental order to close or reduce capacity of a business, as determined by the Department of Economic Opportunity, for each employer who is eligible for a variation from the standard rate pursuant to paragraph (d). The Department of Economic Opportunity shall provide the tax collection service provider with all necessary benefit charge information by August 1, 2021, including specific information for adjustments related to COVID-19 charges resulting from a governmental order to close or reduce capacity of a business, to enable the tax collection service provider to calculate and issue tax rates effective January 1, 2022. The tax collection service provider shall calculate and post rates for the 2022 calendar year by March 1, 2022.

5. Subject to subparagraph 6., the tax collection service provider shall calculate and assign contribution rates effective January 1, 2023, through December 31, 2025, excluding any benefit charge that is excluded by the multipliers under subparagraph (b)2. and subparagraph 1.; without the application of the positive adjustment factor in sub-sub-subparagraph 2.a.(III); and without the inclusion of any benefit charge directly related to COVID-19 as a result of a governmental order to close or reduce capacity of a business, as determined by the Department of Economic Opportunity, for each employer who is eligible for a variation from the standard rate pursuant to
paragraph (d). The Department of Economic Opportunity shall provide the tax collection service provider with all necessary benefit charge information by August 1 of each year, including specific information for adjustments related to COVID-19 charges resulting from a governmental order to close or reduce capacity of a business, to enable the tax collection service provider to calculate and issue tax rates effective the following January.

6. If the balance of the Unemployment Compensation Trust Fund on June 30 of any year exceeds $4,071,519,600, subparagraph 5. is repealed for rates effective the following years. The Office of Economic and Demographic Research shall advise the tax collection service provider of the balance of the trust fund on June 30 by August 1 of that year. After the repeal of subparagraph 5. and notwithstanding the dates specified in that subparagraph, the tax collection service provider shall calculate and assign contribution rates for each subsequent calendar year as otherwise provided in this section.

Section 21. Paragraph (a) of subsection (9) of section 443.171, Florida Statutes, is amended to read:

443.171 Department of Economic Opportunity and commission; powers and duties; records and reports; proceedings; state-federal cooperation.—

(9) STATE-FEDERAL COOPERATION.—

(a)1. In the administration of this chapter, the Department of Economic Opportunity and its tax collection service provider shall cooperate with the United States Department of Labor to the fullest extent consistent with this chapter and shall take those actions, through the adoption of appropriate rules, administrative methods, and standards, necessary to secure for
this state all advantages available under the provisions of federal law relating to reemployment assistance.

2. In the administration of the provisions in s. 443.1115, which are enacted to conform with the Federal-State Extended Unemployment Compensation Act of 1970, the department shall take those actions necessary to ensure that those provisions are interpreted and applied to meet the requirements of the federal act as interpreted by the United States Department of Labor and to secure for this state the full reimbursement of the federal share of extended benefits paid under this chapter which is reimbursable under the federal act.

3. The department and its tax collection service provider shall comply with the regulations of the United States Department of Labor relating to the receipt or expenditure by this state of funds granted under federal law; shall submit the reports in the form and containing the information the United States Department of Labor requires; and shall comply with directions of the United States Department of Labor necessary to assure the correctness and verification of these reports.

4. The department and its tax collection service provider shall comply with the requirements of the federal Treasury Offset Program as it pertains to the recovery of unemployment compensation debts as required by the United States Department of Labor pursuant to 26 U.S.C. s. 6402. The department or the tax collection service provider may adopt rules to implement this subparagraph.

Section 22. This act shall take effect July 1, 2022.