

By Representative Crist

1                                   A bill to be entitled  
2           An act relating to the health technology  
3           industry; providing intent; amending s. 212.08,  
4           F.S.; revising the exemption from the tax on  
5           sales, use, and other transactions for  
6           machinery and equipment used in silicon  
7           technology production and research and  
8           development, to include machinery and equipment  
9           used by health technology facilities to produce  
10          health technology products, and machinery and  
11          equipment used in research and development or  
12          manufacturing in a health technology facility;  
13          providing a definition; amending s. 499.015,  
14          F.S.; providing that certain medical device  
15          manufacturers are exempt from registration and  
16          payment of fees under the Florida Drug and  
17          Cosmetic Act; requiring submission of certain  
18          documentation; directing the State University  
19          System and the University of Miami to perform  
20          certain evaluations relating to health  
21          technology business incubators and health  
22          technology companies, certain clinical trial  
23          programs, and certain interaction with the  
24          State University System; requiring a report;  
25          encouraging the State Board of Community  
26          Colleges to develop health technology  
27          curricula; requiring a report by the State  
28          Community College System; directing the  
29          Division of Securities of the Office of the  
30          Comptroller to form a task force to review ch.  
31          517, F.S., to enhance opportunities for health

1           technology firms to raise capital; requiring a  
2           report; providing an effective date.

3  
4           WHEREAS, Enterprise Florida, Inc., has a sector  
5 strategy devoted to Florida's health technology industry, and

6           WHEREAS, the health technology industry represents a  
7 valued and growing sector of Florida's economy, and

8           WHEREAS, this industry employs over 250,000 Floridians  
9 at a high average wage, and

10           WHEREAS, this industry is a significant contributor of  
11 state and local tax revenue, and

12           WHEREAS, this industry is dominated by small employers  
13 and entrepreneurs that look to the state, its communities,  
14 economic development organizations, and community colleges and  
15 universities to provide an environment that will nurture its  
16 development, and

17           WHEREAS, this industry improves the quality of life for  
18 all Floridians, and

19           WHEREAS, the Florida Legislature recognizes the  
20 importance of this industry to our state, NOW, THEREFORE,

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24           Section 1. Legislative intent.--It is the intent of  
25 the Legislature to encourage and facilitate the location and  
26 expansion of the state's health technology industry. This  
27 industry sector creates high-wage, value-added jobs which  
28 strengthen and diversify the state's economy.

29           Section 2. Paragraph (j) of subsection (5) of section  
30 212.08, Florida Statutes, 1998 Supplement, is amended to read:

31

1           212.08 Sales, rental, use, consumption, distribution,  
2 and storage tax; specified exemptions.--The sale at retail,  
3 the rental, the use, the consumption, the distribution, and  
4 the storage to be used or consumed in this state of the  
5 following are hereby specifically exempt from the tax imposed  
6 by this chapter.

7           (5) EXEMPTIONS; ACCOUNT OF USE.--

8           (j) Machinery and equipment used in health technology  
9 and silicon technology production and research and  
10 development.--

11           1. Industrial machinery and equipment purchased for  
12 use in silicon technology facilities certified under  
13 subparagraph 5. to manufacture, process, compound, or produce  
14 health technology or silicon technology products for sale or  
15 for use by these facilities are exempt from the tax imposed by  
16 this chapter.

17           2. Machinery and equipment are exempt from the tax  
18 imposed by this chapter if purchased for use predominately in  
19 research and development or manufacturing in a health  
20 technology facility certified under subparagraph 5., or if  
21 purchased for use predominately in silicon wafer research and  
22 development activities in a silicon technology research and  
23 development facility certified under subparagraph 5.

24           3. In addition to meeting the criteria mandated by  
25 subparagraph 1. or subparagraph 2., a business must be  
26 certified by the Office of Tourism, Trade, and Economic  
27 Development as authorized in this paragraph in order to  
28 qualify for exemption under this paragraph.

29           4. For items purchased tax exempt pursuant to this  
30 paragraph, possession of a written certification from the  
31 purchaser, certifying the purchaser's entitlement to exemption

1 pursuant to this paragraph, relieves the seller of the  
2 responsibility of collecting the tax on the sale of such  
3 items, and the department shall look solely to the purchaser  
4 for recovery of tax if it determines that the purchaser was  
5 not entitled to the exemption.

6           5.a. To be eligible to receive the exemption provided  
7 by subparagraph 1. or subparagraph 2., a qualifying business  
8 entity shall apply to Enterprise Florida, Inc. The application  
9 shall be developed by the Office of Tourism, Trade, and  
10 Economic Development in consultation with Enterprise Florida,  
11 Inc.

12           b. Enterprise Florida, Inc., shall review each  
13 submitted application and information and determine whether or  
14 not the application is complete within 5 working days. Once an  
15 application is complete, Enterprise Florida, Inc., shall,  
16 within 10 working days, evaluate the application and recommend  
17 approval or disapproval of the application to the Office of  
18 Tourism, Trade, and Economic Development.

19           c. Upon receipt of the application and recommendation  
20 from Enterprise Florida, Inc., the Office of Tourism, Trade,  
21 and Economic Development shall certify within 5 working days  
22 those applicants who are found to meet the requirements of  
23 this section and notify the applicant, Enterprise Florida,  
24 Inc., and the department of the certification. If the Office  
25 of Tourism, Trade, and Economic Development finds that the  
26 applicant does not meet the requirements of this section, it  
27 shall notify the applicant and Enterprise Florida, Inc.,  
28 within 10 working days that the application for certification  
29 has been denied and the reasons for denial. The Office of  
30 Tourism, Trade, and Economic Development has final approval  
31 authority for certification under this section.

1           6.a. A business certified to receive this exemption  
2 may apply once each year for the exemption.

3           b. The first claim submitted by a business may include  
4 all eligible expenditures made after the date the business was  
5 certified.

6           c. To apply for the annual exemption, the business  
7 shall submit a claim to the Office of Tourism, Trade, and  
8 Economic Development, which claim indicates and documents the  
9 sales and use taxes otherwise payable on eligible machinery  
10 and equipment. The claim must also indicate, for program  
11 evaluation purposes only, the average number of full-time  
12 equivalent employees at the facility over the preceding  
13 calendar year, the average wage and benefits paid to those  
14 employees over the preceding calendar year, and the total  
15 investment made in real and tangible personal property over  
16 the preceding calendar year or, for the first claim submitted,  
17 since the date of certification. The department shall assist  
18 the Office of Tourism, Trade, and Economic Development in  
19 evaluating and verifying information provided in the  
20 application for exemption.

21           d. The Office of Tourism, Trade, and Economic  
22 Development may use the information reported on the claims for  
23 evaluation purposes only and shall prepare an annual report on  
24 the exemption program and its cost and impact. The annual  
25 report for the preceding fiscal year shall be submitted to the  
26 Governor, the President of the Senate, and the Speaker of the  
27 House of Representatives by September 30 of each fiscal year.  
28 This report may be submitted in conjunction with the annual  
29 report required in s. 288.095(3)(c).

30           7. A business certified to receive this exemption may  
31 elect to designate one or more state universities or community

1 colleges as recipients of up to 100 percent of the amount of  
2 the exemption for which they may qualify. To receive these  
3 funds, the institution must agree to match the funds so earned  
4 with equivalent cash, programs, services, or other in-kind  
5 support on a one-to-one basis in the pursuit of research and  
6 development projects as requested by the certified business.  
7 The rights to any patents, royalties, or real or intellectual  
8 property must be vested in the business unless otherwise  
9 agreed to by the business and the university or community  
10 college.

11 8. As used in this paragraph, the term:

12 a. "Predominately" means at least 50 percent of the  
13 time in qualifying research and development.

14 b. "Research and development" means basic and applied  
15 research in the science or engineering, as well as the design,  
16 development, and testing of prototypes or processes of new or  
17 improved products. Research and development does not include  
18 market research, routine consumer product testing, sales  
19 research, research in the social sciences or psychology,  
20 nontechnological activities, or technical services.

21 c. "Silicon technology products" means raw silicon  
22 wafers that are transformed into semiconductor memory or logic  
23 wafers, including wafers containing mixed memory and logic  
24 circuits; related assembly and test operations; active-matrix  
25 flat panel displays; semiconductor chips; and related silicon  
26 technology products as determined by the Office of Tourism,  
27 Trade, and Economic Development.

28 d. "Health technology products" means drugs; surgical,  
29 medical, and dental instruments and supplies, ophthalmic  
30 goods, laboratory apparatus, and laboratory analytical  
31 instruments; optical instruments and lenses; and related

1 health technology products as determined by the Office of  
2 Tourism, Trade, and Economic Development.

3 Section 3. Subsection (8) is added to section 499.015,  
4 Florida Statutes, 1998 Supplement, to read:

5 499.015 Registration of drugs, devices, and cosmetics;  
6 issuance of certificates of free sale.--

7 (8) Notwithstanding any other requirement in ss.  
8 499.001-499.081, medical device manufacturers whose devices  
9 are approved by and registered and listed with the United  
10 States Food and Drug Administration are exempt from the  
11 provisions of this section and s. 499.041(6). However, the  
12 manufacturer must submit evidence of such registration,  
13 listing, and approval at the time it submits its application  
14 for a permit to do business in the state as required by s.  
15 499.013(2)(d). Evidence of United States Food and Drug  
16 Administration approval and registration includes:

17 (a) A copy of the premarket notification letter (510K)  
18 for class II devices;

19 (b) A United States Food and Drug Administration  
20 premarket approval number for class III devices;

21 (c) A United States Food and Drug Administration  
22 registration number for subcontract medical device  
23 manufacturers who manufacture components of devices for  
24 manufacturers; or

25 (d) A United States Food and Drug Administration  
26 registration number for medical device manufacturers whose  
27 devices are exempt from premarket approval.

28 Section 4. The State University System and the  
29 University of Miami shall evaluate the feasibility of  
30 establishing additional health technology business incubators  
31 similar to the University of Florida's Sid Martin

1 Biotechnology Institute at appropriate state universities or  
2 the University of Miami, and the feasibility of enhancing and  
3 expanding current facilities to support health technology  
4 companies. The State University System and the University of  
5 Miami shall evaluate establishing cooperative clinical trial  
6 programs in conjunction with their medical schools. The State  
7 University System shall also evaluate and recommend ways to  
8 support, improve, encourage, and facilitate the creation of  
9 and the collaboration with Florida-based businesses in  
10 licensing State University System intellectual property, and  
11 the collaboration of State University System employees with  
12 Florida businesses in research and technology transfer  
13 efforts. The State University System and the University of  
14 Miami shall consult with the Health Technology Advisory  
15 Council of Enterprise Florida, Inc., and Bio+Florida as part  
16 of these evaluations and recommendations. The State  
17 University System and the University of Miami shall report  
18 their recommendations to the Governor, the President of the  
19 Senate, and the Speaker of the House of Representatives by  
20 December 1, 1999.

21       Section 5. The State Board of Community Colleges is  
22 encouraged to continue its efforts to develop health  
23 technology curricula to support the industry's workforce  
24 needs. The State Community College System shall report its  
25 results to the Governor, the President of the Senate, and the  
26 Speaker of the House of Representatives by December 1, 1999.

27       Section 6. The Division of Securities of the Office of  
28 the Comptroller, in collaboration with the Office of Tourism,  
29 Trade, and Economic Development, Enterprise Florida, Inc., and  
30 its Health Technology Advisory Council, Bio+Florida, and The  
31 Florida Bar, shall form a task force to review and evaluate



1 chapter 517, Florida Statutes, to determine its impact on the  
2 ability of Florida's health technology firms to raise capital.  
3 The Division of Securities shall report to the Governor, the  
4 President of the Senate, and the Speaker of the House of  
5 Representatives, by December 1, 1999, the task force's  
6 recommendations to modify and reform chapter 517, Florida  
7 Statutes, to enhance opportunities for health technology firms  
8 to raise capital, consistent with the protection of Florida  
9 investors.

10 Section 7. This act shall take effect July 1, 1999.

11 \*\*\*\*\*

12 HOUSE SUMMARY

13  
14 Revises the exemption from the tax on sales, use, and  
15 other transactions for machinery and equipment used in  
16 silicon technology production and research and  
17 development, to include machinery and equipment used by  
18 health technology facilities to produce health technology  
19 products, and machinery and equipment used in research  
20 and development or manufacturing in a health technology  
21 facility.

22 Provides that certain medical device manufacturers are  
23 exempt from registration and payment of fees under the  
24 Florida Drug and Cosmetic Act.

25 Directs the State University System and the University of  
26 Miami to perform certain evaluations relating to health  
27 technology business incubators and health technology  
28 companies, certain clinical trial programs, and certain  
29 interaction with the State University System, and  
30 requires a report. Encourages the State Board of  
31 Community Colleges to develop health technology curricula  
and requires a report by the State Community College  
System. Directs the Division of Securities of the Office  
of the Comptroller to form a task force to review ch.  
517, F.S., to enhance opportunities for health technology  
firms to raise capital, and requires a report.