

1 A bill to be entitled

2 An act relating to exemptions from the tax on sales, use,  
3 and other transactions; providing a short title; providing  
4 legislative findings and purpose; amending s. 212.08,  
5 F.S.; deleting an annual limitation on an exemption from  
6 the sales tax for certain machinery and equipment used to  
7 increase productive output; deleting an exemption for  
8 machinery and equipment used to expand certain printing  
9 manufacturing facilities or plant units; deleting a  
10 limitation on application of the exemption for machinery  
11 and equipment purchased for use in phosphate or other  
12 solid minerals severance, mining, or processing operations  
13 by way of a prospective credit; deleting an annual  
14 limitation on an exemption from the sales tax for certain  
15 machinery and equipment purchased under a federal  
16 procurement contract; repealing s. 212.0805, F.S.,  
17 relating to qualifications for the exemption and credit  
18 for machinery and equipment purchased by an expanding  
19 business for use in phosphate or other solid minerals  
20 severance, mining, or processing operations; providing an  
21 appropriation; providing an effective date.

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

24  
25 Section 1. Short title.--This act may be cited as the  
26 "Florida Manufacturing Global Competitiveness Act."

27           Section 2. Legislative findings and purpose.--The  
 28 Legislature finds that a competitive manufacturing business  
 29 climate is important given that the manufacturing sector  
 30 contributes significantly to the economy of this state, helping  
 31 the state to weather natural and manmade disasters; that the  
 32 development of free trade agreements with the Americas will  
 33 allow the state to be the gateway to increased international  
 34 trade that will expand the opportunities for manufacturing  
 35 exports, potentially add thousands of well-paying jobs in the  
 36 state, and secure this state's place in emerging markets in the  
 37 world marketplace; and that with the potential for increasing  
 38 exports, an investment in manufacturing today will mean  
 39 significant long-term positive economic benefits to the state  
 40 tomorrow.

41           Section 3. Paragraphs (b) and (d) of subsection (5) of  
 42 section 212.08, Florida Statutes, are amended to read:

43           212.08 Sales, rental, use, consumption, distribution, and  
 44 storage tax; specified exemptions.--The sale at retail, the  
 45 rental, the use, the consumption, the distribution, and the  
 46 storage to be used or consumed in this state of the following  
 47 are hereby specifically exempt from the tax imposed by this  
 48 chapter.

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

50           (b) Machinery and equipment used to increase productive  
 51 output.--

52           1. Industrial machinery and equipment purchased for  
 53 exclusive use by a new business in spaceport activities as

54 defined by s. 212.02 or for use in new businesses which  
55 manufacture, process, compound, or produce for sale items of  
56 tangible personal property at fixed locations are exempt from  
57 the tax imposed by this chapter upon an affirmative showing by  
58 the taxpayer to the satisfaction of the department that such  
59 items are used in a new business in this state. Such purchases  
60 must be made prior to the date the business first begins its  
61 productive operations, and delivery of the purchased item must  
62 be made within 12 months of that date.

63 ~~2.a.~~ Industrial machinery and equipment purchased for  
64 exclusive use by an expanding facility which is engaged in  
65 spaceport activities as defined by s. 212.02 or for use in  
66 expanding manufacturing facilities or plant units which  
67 manufacture, process, compound, or produce for sale items of  
68 tangible personal property at fixed locations in this state are  
69 exempt from any amount of tax imposed by this chapter ~~in excess~~  
70 ~~of \$50,000 per calendar year~~ upon an affirmative showing by the  
71 taxpayer to the satisfaction of the department that such items  
72 are used to increase the productive output of such expanded  
73 facility or business by not less than 10 percent.

74 ~~b.~~ ~~Notwithstanding any other provision of this section,~~  
75 ~~industrial machinery and equipment purchased for use in~~  
76 ~~expanding printing manufacturing facilities or plant units that~~  
77 ~~manufacture, process, compound, or produce for sale items of~~  
78 ~~tangible personal property at fixed locations in this state are~~  
79 ~~exempt from any amount of tax imposed by this chapter upon an~~  
80 ~~affirmative showing by the taxpayer to the satisfaction of the~~

81 ~~department that such items are used to increase the productive~~  
82 ~~output of such an expanded business by not less than 10 percent.~~

83 3.a. To receive an exemption provided by subparagraph 1.  
84 or subparagraph 2., a qualifying business entity shall apply to  
85 the department for a temporary tax exemption permit. The  
86 application shall state that a new business exemption or  
87 expanded business exemption is being sought. Upon a tentative  
88 affirmative determination by the department pursuant to  
89 subparagraph 1. or subparagraph 2., the department shall issue  
90 such permit.

91 b. The applicant shall be required to maintain all  
92 necessary books and records to support the exemption. Upon  
93 completion of purchases of qualified machinery and equipment  
94 pursuant to subparagraph 1. or subparagraph 2., the temporary  
95 tax permit shall be delivered to the department or returned to  
96 the department by certified or registered mail.

97 c. If, in a subsequent audit conducted by the department,  
98 it is determined that the machinery and equipment purchased as  
99 exempt under subparagraph 1. or subparagraph 2. did not meet the  
100 criteria mandated by this paragraph or if commencement of  
101 production did not occur, the amount of taxes exempted at the  
102 time of purchase shall immediately be due and payable to the  
103 department by the business entity, together with the appropriate  
104 interest and penalty, computed from the date of purchase, in the  
105 manner prescribed by this chapter.

106 d. In the event a qualifying business entity fails to  
107 apply for a temporary exemption permit or if the tentative

108 | determination by the department required to obtain a temporary  
109 | exemption permit is negative, a qualifying business entity shall  
110 | receive the exemption provided in subparagraph 1. or  
111 | subparagraph 2. through a refund of previously paid taxes. No  
112 | refund may be made for such taxes unless the criteria mandated  
113 | by subparagraph 1. or subparagraph 2. have been met and  
114 | commencement of production has occurred.

115 |         4. The department shall adopt rules governing applications  
116 | for, issuance of, and the form of temporary tax exemption  
117 | permits; provisions for recapture of taxes; and the manner and  
118 | form of refund applications and may establish guidelines as to  
119 | the requisites for an affirmative showing of increased  
120 | productive output, commencement of production, and qualification  
121 | for exemption.

122 |         5. The exemptions provided in subparagraphs 1. and 2. do  
123 | not apply to machinery or equipment purchased or used by  
124 | electric utility companies, communications companies, oil or gas  
125 | exploration or production operations, publishing firms that do  
126 | not export at least 50 percent of their finished product out of  
127 | the state, any firm subject to regulation by the Division of  
128 | Hotels and Restaurants of the Department of Business and  
129 | Professional Regulation, or any firm which does not manufacture,  
130 | process, compound, or produce for sale items of tangible  
131 | personal property or which does not use such machinery and  
132 | equipment in spaceport activities as required by this paragraph.  
133 | The exemptions provided in subparagraphs 1. and 2. shall apply  
134 | to machinery and equipment purchased for use in phosphate or

135 other solid minerals severance, mining, or processing operations  
136 ~~only by way of a prospective credit against taxes due under~~  
137 ~~chapter 211 for taxes paid under this chapter on such machinery~~  
138 ~~and equipment.~~

139 6. For the purposes of the exemptions provided in  
140 subparagraphs 1. and 2., these terms have the following  
141 meanings:

142 a. "Industrial machinery and equipment" means tangible  
143 personal property or other property that has a depreciable life  
144 of 3 years or more and that is used as an integral part in the  
145 manufacturing, processing, compounding, or production of  
146 tangible personal property for sale or is exclusively used in  
147 spaceport activities. A building and its structural components  
148 are not industrial machinery and equipment unless the building  
149 or structural component is so closely related to the industrial  
150 machinery and equipment that it houses or supports that the  
151 building or structural component can be expected to be replaced  
152 when the machinery and equipment are replaced. Heating and air-  
153 conditioning systems are not industrial machinery and equipment  
154 unless the sole justification for their installation is to meet  
155 the requirements of the production process, even though the  
156 system may provide incidental comfort to employees or serve, to  
157 an insubstantial degree, nonproduction activities. The term  
158 includes parts and accessories only to the extent that the  
159 exemption thereof is consistent with the provisions of this  
160 paragraph.

161           b. "Productive output" means the number of units actually  
162 produced by a single plant or operation in a single continuous  
163 12-month period, irrespective of sales. Increases in productive  
164 output shall be measured by the output for 12 continuous months  
165 immediately following the completion of installation of such  
166 machinery or equipment over the output for the 12 continuous  
167 months immediately preceding such installation. However, if a  
168 different 12-month continuous period of time would more  
169 accurately reflect the increase in productive output of  
170 machinery and equipment purchased to facilitate an expansion,  
171 the increase in productive output may be measured during that  
172 12-month continuous period of time if such time period is  
173 mutually agreed upon by the Department of Revenue and the  
174 expanding business prior to the commencement of production;  
175 provided, however, in no case may such time period begin later  
176 than 2 years following the completion of installation of the new  
177 machinery and equipment. The units used to measure productive  
178 output shall be physically comparable between the two periods,  
179 irrespective of sales.

180           (d) Machinery and equipment used under federal procurement  
181 contract.--

182           1. Industrial machinery and equipment purchased by an  
183 expanding business which manufactures tangible personal property  
184 pursuant to federal procurement regulations at fixed locations  
185 in this state are ~~partially~~ exempt from the tax imposed in this  
186 chapter ~~on that portion of the tax which is in excess of~~  
187 ~~\$100,000 per calendar year~~ upon an affirmative showing by the

188 taxpayer to the satisfaction of the department that such items  
 189 are used to increase the implicit productive output of the  
 190 expanded business by not less than 10 percent. The percentage of  
 191 increase is measured as deflated implicit productive output for  
 192 the calendar year during which the installation of the machinery  
 193 or equipment is completed or during which commencement of  
 194 production utilizing such items is begun divided by the implicit  
 195 productive output for the preceding calendar year. In no case  
 196 may the commencement of production begin later than 2 years  
 197 following completion of installation of the machinery or  
 198 equipment.

199         2. The amount of the exemption allowed shall equal the  
 200 taxes otherwise imposed by this chapter ~~in excess of \$100,000~~  
 201 ~~per calendar year~~ on qualifying industrial machinery or  
 202 equipment reduced by the percentage of gross receipts from cost-  
 203 reimbursement type contracts attributable to the plant or  
 204 operation to total gross receipts so attributable, accrued for  
 205 the year of completion or commencement.

206         3. The exemption provided by this paragraph shall inure to  
 207 the taxpayer only through refund of previously paid taxes. Such  
 208 refund shall be made within 30 days of formal approval by the  
 209 department of the taxpayer's application, which application may  
 210 be made on an annual basis following installation of the  
 211 machinery or equipment.

212         4. For the purposes of this paragraph, the term:

213             a. "Cost-reimbursement type contracts" has the same  
 214 meaning as in 32 C.F.R. s. 3-405.



215           b. "Deflated implicit productive output" means the product  
216 of implicit productive output times the quotient of the national  
217 defense implicit price deflator for the preceding calendar year  
218 divided by the deflator for the year of completion or  
219 commencement.

220           c. "Eligible costs" means the total direct and indirect  
221 costs, as defined in 32 C.F.R. ss. 15-202 and 15-203, excluding  
222 general and administrative costs, selling expenses, and profit,  
223 defined by the uniform cost-accounting standards adopted by the  
224 Cost-Accounting Standards Board created pursuant to 50 U.S.C. s.  
225 2168.

226           d. "Implicit productive output" means the annual eligible  
227 costs attributable to all contracts or subcontracts subject to  
228 federal procurement regulations of the single plant or operation  
229 at which the machinery or equipment is used.

230           e. "Industrial machinery and equipment" means tangible  
231 personal property or other property that has a depreciable life  
232 of 3 years or more, that qualifies as an eligible cost under  
233 federal procurement regulations, and that is used as an integral  
234 part of the process of production of tangible personal property.  
235 A building and its structural components are not industrial  
236 machinery and equipment unless the building or structural  
237 component is so closely related to the industrial machinery and  
238 equipment that it houses or supports that the building or  
239 structural component can be expected to be replaced when the  
240 machinery and equipment are replaced. Heating and air-  
241 conditioning systems are not industrial machinery and equipment

242 unless the sole justification for their installation is to meet  
243 the requirements of the production process, even though the  
244 system may provide incidental comfort to employees or serve, to  
245 an insubstantial degree, nonproduction activities. The term  
246 includes parts and accessories only to the extent that the  
247 exemption of such parts and accessories is consistent with the  
248 provisions of this paragraph.

249 f. "National defense implicit price deflator" means the  
250 national defense implicit price deflator for the gross national  
251 product as determined by the Bureau of Economic Analysis of the  
252 United States Department of Commerce.

253 5. The exclusions provided in subparagraph (b)5. apply to  
254 this exemption. This exemption applies only to machinery or  
255 equipment purchased pursuant to production contracts with the  
256 United States Department of Defense and Armed Forces, the  
257 National Aeronautics and Space Administration, and other federal  
258 agencies for which the contracts are classified for national  
259 security reasons. In no event shall the provisions of this  
260 paragraph apply to any expanding business the increase in  
261 productive output of which could be measured under the  
262 provisions of sub-subparagraph (b)6.b. as physically comparable  
263 between the two periods.

264 Section 4. Section 212.0805, Florida Statutes, is  
265 repealed.

266 Section 5. For the 2006-2007 fiscal year, the sum of  
267 \$203,574 in recurring funds and the sum of \$19,372 in  
268 nonrecurring funds are appropriated from the General Revenue

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269 | Fund to the Department of Revenue and four full-time equivalent  
270 | positions and associated salary rate of 137,955 are authorized  
271 | for the purpose of implementing this act.

272 |       Section 6. This act shall take effect July 1, 2006.