

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011

# A Bill

HOUSE BILL 1397

4  
5 By: Representative Ingram  
6 By: Senator Files

## For An Act To Be Entitled

9 ACT TO PROMOTE ECONOMIC DEVELOPMENT WITHIN THE STATE  
10 BY EXEMPTING FROM THE STATE SALES AND USE TAX FUEL  
11 AND ENERGY USED OR CONSUMED IN MANUFACTURING; TO  
12 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

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16 TO PROMOTE ECONOMIC DEVELOPMENT WITHIN  
17 THE STATE BY EXEMPTING FROM THE STATE  
18 SALES AND USE TAX FUEL AND ENERGY USED OR  
19 CONSUMED IN MANUFACTURING AND TO DECLARE  
20 AN EMERGENCY.

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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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25 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 4 is amended  
26 to add an additional section to read as follows:

27 26-52-444. Fuel and energy used in manufacturing and processing plants  
28 and facilities.

29 (a) As used in this section:

30 (1) "Directly" means the same as in § 26-52-402(c);

31 (2) "Fuel and energy" means natural gas, electricity, fuel oil,  
32 steam, coal, lignite, wood chips, wood byproducts, nuclear fuel, liquefied  
33 petroleum gas, petroleum coke, agricultural waste and animal agricultural  
34 waste;

35 (3) "Manufacturing" and "processing" means the same as in § 26-  
36 52-402(b), including without limitation the generation of electricity for



1 sale; and

2 (4) "Used directly" means the same as in § 26-52-402(c).

3 (b) Gross receipts or gross proceeds derived from the sale of fuel and  
 4 energy are exempt from the gross receipts taxes levied by this chapter and  
 5 the compensating use tax levied by the Arkansas Compensating Tax Act of 1949,  
 6 § 26-53-101 et seq., if the fuel and energy is:

7 (1) Used directly in producing, manufacturing, fabricating,  
 8 assembling, processing, finishing, or packaging of articles of commerce; or

9 (2) Required to prevent or reduce air or water pollution or  
 10 contamination that might otherwise result from the operation of a  
 11 manufacturing or processing plant or facility in the state.

12 (c)(1) Fuel and energy used during a regular monthly billing period or  
 13 on a monthly basis for both exempt and taxable purposes that is delivered  
 14 through a single meter is exempt or taxable based on the predominant use of  
 15 the deliveries measured by the single meter.

16 (2) The director may promulgate rules to establish the  
 17 predominant use of fuel and energy delivered through a single meter.

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 19 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
 20 General Assembly of the State of Arkansas that the sales and use taxes that  
 21 Arkansas imposes on fuel and energy used in manufacturing and processing far  
 22 exceed the taxes imposed by competing states; that competing states have  
 23 reduced or eliminated their taxes on fuel and energy used in manufacturing  
 24 and processing in recent years; that Arkansas has suffered a significant loss  
 25 of jobs in the manufacturing sector in recent years and has failed to attract  
 26 potential manufacturing projects for reasons that include tax comparisons  
 27 with other states; and that this act is necessary because manufacturing jobs  
 28 are a crucial part of the Arkansas economy and must be preserved and expanded  
 29 in order to provide citizens the opportunity to maintain a reasonable  
 30 standard of living, retain young workers, and provide and promote quality  
 31 education throughout the state. Therefore, an emergency is declared to exist  
 32 and this act being necessary for the preservation of the public peace,  
 33 health, and safety shall become effective on July 1, 2011.