

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

As Engrossed: H2/17/11  
**A Bill**

HOUSE BILL 1397

5 By: Representative Ingram  
6 By: Senator Files  
7

**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.  
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**Subtitle**

15 TO PROMOTE ECONOMIC DEVELOPMENT WITHIN  
16 THE STATE BY EXEMPTING FROM THE STATE  
17 SALES AND USE TAX FUEL AND ENERGY USED OR  
18 CONSUMED IN MANUFACTURING AND TO DECLARE  
19 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) Except as provided by subsection (d) of this section, gross  
4 receipts or gross proceeds derived from the sale of fuel and energy are  
5 exempt from the gross receipts taxes levied by this chapter and the  
6 compensating use tax levied by the Arkansas Compensating Tax Act of 1949, §  
7 26-53-101 et seq., if the fuel and energy is:

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

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

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

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

19 (d) The sale of fuel and energy that is exempt from the gross receipts  
20 and compensating use taxes under subsection (b) of this section is subject to  
21 the excise tax levied under Arkansas Constitution, Amendment 75, § 2.

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

1 health, and safety shall become effective on July 1, 2011.

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*/s/Ingram*

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