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2 81st General Assembly
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A Bill

HOUSE BILL 1045

4 By: *Representatives Curran, Wooldridge, Bryant, Young, Ferguson, Ammons, Dietz, Horn, Wren, Davis, J. Hudson, T. Smith, Booker, Rodgers, D. Hudson, Broadway,*
5 *Allison, Hall, and Hunton*

For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE § 26-52-510 TO PROVIDE A
10 SALES TAX CREDIT FOR CONSUMERS WHO SELL A USED MOTOR
11 VEHICLE IN LIEU OF TRADING THE USED MOTOR VEHICLE IN ON A
12 NEW MOTOR VEHICLE PURCHASE; AND FOR OTHER PURPOSES."

Subtitle

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17 "TO PROVIDE A SALES TAX CREDIT FOR
18 CONSUMERS WHO SELL A USED CAR IN LIEU OF
19 TRADING IT IN ON A NEW CAR PURCHASE."

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

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23 SECTION 1. Arkansas Code § 26-52-510 is amended to read as follows:
24 § 26-52-510. Direct payment of tax by consumer-user - New and used
25 cars.

26 (a)(1)(A) The tax levied by this chapter and all other gross receipts
27 taxes levied by the state in respect to the sale of new or used motor
28 vehicles, trailers, or semitrailers required to be licensed in this state
29 shall be paid by the consumer to the Director of the Department of Finance and
30 Administration instead of being collected by the dealer or seller, and it is
31 the mandatory duty of the director to require the payment of such tax at the
32 time of registration before issuing licenses for new or used motor vehicles or
33 trailers.

34 (B)(i) The tax shall apply regardless of whether the motor vehicle,
35 trailer, or semitrailer is sold by a vehicle dealer, or an individual,
36 corporation, or partnership not licensed as a vehicle dealer.

1 (ii) The exemption provided for in § 26-52-401(17) for isolated sales
2 shall not apply to the sale of motor vehicles, trailers, or semitrailers.

3 (2)(A) The tax levied by this chapter and all other gross receipts taxes
4 levied by the state in respect to the sale of new or used motor vehicles,
5 trailers, or semitrailers required to be licensed in this state shall be paid
6 by the consumer on or before the time for registration as prescribed by § 27-
7 14-903(a).

8 (B)(i) Failure to pay the tax when due shall result in an assessment of
9 a penalty equal to ten percent (10%) of the amount of tax due.

10 (ii) The penalty must be paid to the director along with the tax before
11 the vehicle license will be issued.

12 (b)(1)(A) When a used motor vehicle, trailer, or semitrailer is taken in
13 trade as a credit or part payment on the sale of a new or used motor vehicle,
14 trailer, or semitrailer, the tax levied by this chapter and all other gross
15 receipts taxes levied by the state shall be paid on the net difference between
16 the total consideration for the new or used vehicle, trailer, or semitrailer
17 sold and the credit for the used vehicle, trailer, or semitrailer taken in
18 trade.

19 (B) When a used motor vehicle, trailer, or semitrailer is sold by
20 a consumer, rather than traded-in as a credit or part payment on the sale of a
21 new or used motor vehicle, trailer, or semitrailer, and the consumer
22 subsequently purchases a new or used vehicle of greater value within *forty-*
23 *five* (45) days of the sale, the tax levied by this chapter and all other gross
24 receipts taxes levied by the state shall be paid on the net difference between
25 the total consideration for the new or used vehicle, trailer, or semitrailer
26 purchased subsequently and the amount received from the sale of the used
27 vehicle, trailer, or semitrailer sold in lieu of a trade-in.

28 (C) However, if the total consideration for the sale of the new or used
29 motor vehicle, trailer, or semitrailer is less than two thousand dollars
30 (\$2,000), no tax shall be due.

31 (2)(A)(i) When a motor vehicle dealer removes a vehicle from its
32 inventory and the vehicle is used by the dealership as a service vehicle, the
33 dealer shall register the vehicle, obtain a certificate of title, and pay
34 sales tax on the listed retail price of the new vehicle.

35 (ii) When the motor vehicle dealer returns the service vehicle to
36 inventory as a used vehicle and replaces it with a new vehicle for dealership

1 use as a service vehicle, the dealer shall pay sales tax on the difference
2 between the listed retail price of the new service vehicle to be used by the
3 dealership and the value of the used service vehicle being returned to
4 inventory. The value of the used service vehicle shall be the highest listed
5 wholesale price reflected in the most current edition of the National
6 Automotive Dealers' Association's Official Used Car Guide.

7 (B)(i) For purposes of this subsection, the term "service vehicle"
8 means a motor vehicle driven exclusively by an employee of the dealership and
9 used either to transport dealership customers or dealership parts and
10 equipment.

11 (ii) "Service vehicle" does not include motor vehicles which are rented
12 by the dealership, used as demonstration vehicles, used by dealership
13 employees for personal use, or used to haul or pull other vehicles.

14 (c) All parts and accessories purchased by motor vehicle sellers for
15 resale or used by them for the reconditioning or rebuilding of used motor
16 vehicles intended for resale are exempt from gross receipts tax, provided that
17 the motor vehicle seller meets the requirements of § 26-52-401(12)(A) and
18 applicable regulations promulgated by the director.

19 (d) Nothing in this section shall be construed to repeal any exemption
20 from the Arkansas Gross Receipts Act, § 26-52-101 et seq.

21 (e) No credit shall be allowed for sales or use taxes paid to another
22 state with respect to the purchase of motor vehicles, trailers, or
23 semitrailers which were first registered by the purchaser in Arkansas. This
24 subsection shall apply to all motor vehicles, trailers, or semitrailers
25 purchased on or after November 3, 1989.

26 (f)(1) Any motor vehicle dealer licensed pursuant to § 27-14-601(a)(6)
27 who has purchased a used motor vehicle may, upon payment of all applicable
28 registration and title fees, register the vehicle for the sole purpose of
29 obtaining a certificate of title to the vehicle without payment of gross
30 receipts tax.

31 (2) No license plate shall be provided with such registration, and the
32 used vehicle titled by a dealer under this subsection may not be operated on
33 the public highways unless there is displayed thereon a dealer's license plate
34 issued under the provisions of § 27-14-601(a)(6)(B)(ii).~~ⓧ~~

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36 SECTION 2. Arkansas Code § 26-53-126(b) is amended to read as follows:

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(b)(1) When a used motor vehicle, trailer, or semitrailer is taken in trade as a credit or part payment on the sale of a new or used vehicle, trailer, or semitrailer, the tax levied herein and all other use taxes levied by the state shall be paid on the net difference between the total consideration for the new or used vehicle, trailer, or semitrailer sold and the credit for the used vehicle, trailer, or semitrailer taken in trade. However, if the total consideration for the sale of the new or used motor vehicle, trailer, or semitrailer is less than two thousand dollars (\$2,000), no tax shall be due.

(2) When a used motor vehicle, trailer, or semitrailer is sold by a consumer, rather than traded-in as a credit or part payment on the sale of a new or used motor vehicle, trailer, or semitrailer, and the consumer subsequently purchases a new or used vehicle of greater value within forty-five (45) days of the sale, the tax levied by this chapter and all other compensating taxes levied by the state shall be paid on the net difference between the total consideration for the new or used vehicle, trailer, or semitrailer purchased subsequently and the amount received from the sale of the used vehicle, trailer, or semitrailer sold in lieu of a trade-in.

SECTION 3. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 5. All laws and parts of laws in conflict with this act are hereby repealed.

/s/Rep. Curran et al