

STORAGE NAME: h0915.sa.doc

DATE: January 25, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
STATE ADMINISTRATION
ANALYSIS**

BILL #: HB 915

RELATING TO: Public Schools/Display of the Motto "IN GOD WE TRUST"

SPONSOR(S): Representative Hogan

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) STATE ADMINISTRATION
 - (2) LIFELONG LEARNING COUNCIL
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill directs the superintendent of schools in each school district to:

Provide for the display of the motto "IN GOD WE TRUST" on an appropriately framed background; with minimum dimensions of 11 inches by 14 inches; in each classroom, school auditorium, and school cafeteria.

"Classroom" is defined as any room in a public school where instruction takes place.

"IN GOD WE TRUST" has been established by Congress as the national motto. The motto is stamped on all U.S. money.

This bill is modeled after Mississippi HB 51 that became law in 2001.

Proponents support this bill as a way to increase patriotism and national unity. Opponents assert that the bill is a mandate on teachers and attempts to interject religion into the classroom.

This bill does not appear to have a fiscal impact on state or local governments; however, school districts will be affected. The Department of Education estimates that the cost to implement this bill is approximately \$616,110. See the "Fiscal Comments" section of this analysis for further detail.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This bill requires school districts to incur cost to produce, mount, and display the motto as well as maintain its display.

B. PRESENT SITUATION:

Currently there is no law requiring the display of the national motto "IN GOD WE TRUST" in public schools.

C. EFFECT OF PROPOSED CHANGES:

This bill directs the superintendent of schools in each school district to:

Provide for the display of the motto "IN GOD WE TRUST" on an appropriately framed background; with minimum dimensions of 11 inches by 14 inches; in each classroom, school auditorium, and school cafeteria.

"Classroom" is defined as any room in a public school where instruction takes place.

Congress adopted the motto "IN GOD WE TRUST" as our national motto.¹ The motto has been held constitutional in Federal Court.² The motto is stamped on all U.S. money.

This bill is modeled after Mississippi HB 51 that became law in 2001.³

This bill takes effect upon becoming a law.

Proponents support this bill as a way to increase patriotism and national unity.⁴ Opponents assert that the bill is a mandate on teachers, interfering with their individual classrooms; and that it is an attempt to interject religion into the classroom.⁵

¹ 36 U.S.C. § 302.

² See "Constitutional Issues" section of this analysis.

³ Phone conversation, sponsor's office, 1/24/02 and 1/28/02; phone conversation, Representative Fillingane, sponsor of the Mississippi HB 51, 1/24/02; Virginia's HB 108, which provides for the motto "IN GOD WE TRUST" in schools, has passed the House and is currently in the Senate Committee on Education and Health.

⁴ Phone conversation, sponsor's office, 1/28/02.

⁵ Phone conversation, lobbyist for the ACLU, 1/28/02, however, opponents do not contend that the bill is unconstitutional.

D. SECTION-BY-SECTION ANALYSIS:

Please see "EFFECT OF PROPOSED CHANGES."

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Yes.

D. FISCAL COMMENTS:

This bill requires superintendents (therefore the school districts) to provide a suitably framed display of the "IN GOD WE TRUST" motto, in 117,222 classrooms, and 6,000 cafeterias and auditoriums, or approximately 123,222 spaces. The Department of Education estimates a material cost of \$5.00 per unit. Accordingly the total cost to all school districts is approximately \$616,110.⁶

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

⁶ Department of Education, Program Analysis, HB 915, 1/17/02, House Fiscal Analysis, at 2.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

Applicable Case Law

The First Amendment of the Constitution of the United States provides that Congress can make no law respecting the establishment of religion.⁷

There are two relevant lines of case law with regard to this bill: cases dealing with the motto "IN GOD WE TRUST" and whether this violates the First Amendment's establishment clause and cases dealing with establishment of religion within public schools. In *Aronow v. United States*, Aronow challenged the constitutionality of the motto "IN GOD WE TRUST" and the placement of the motto on U.S. currency and coinage.⁸ The United States Court of Appeals, Ninth Circuit, held that the motto and its placement on currency "has nothing whatsoever to do with the establishment of religion."⁹ In *O'hair v. Murray*, Madeline Murray O'hair challenged the constitutionality of the national motto "IN GOD WE TRUST" and its placement on all U.S. currency and coinage.¹⁰ The United States Court of Appeals, Fifth Circuit, upheld the District Court's decision in *O'hair v. Blumenthal* that the national motto and its placement on U.S. currency did not violate the Constitution.¹¹ In *Gaylor v. United States*, the Freedom from Religion Foundation sued the United States and others seeking declaratory and injunctive relief against further use of the national motto "IN GOD WE TRUST," and its reproduction on U.S. currency.¹² The United States Court of Appeals, Tenth Circuit, held that the motto "IN GOD WE TRUST" did not violate the establishment clause.¹³ In *Schmidt v. Cline* Schmidt and Stearns filed suit against the county treasurer, challenging the placement of "IN GOD WE TRUST" posters in the office of the County Treasurer.¹⁴ The posters were alleged to have measured 11 by 14 inches, to have had the word "God" printed in red letters larger than the black printing used for the other words on the poster and to have made a "barely visible reference to that phrase as being the national motto."¹⁵ Citing *Gaylor v. United States*, the District Court of Kansas held that the use of the posters were not an establishment of religion in violation of the establishment clause.¹⁶

The second line of cases deals with establishment of religion within public schools. In *Stone v. Graham*, the Supreme Court invalidated a Kentucky statute that required the display of the Ten Commandments on the walls of each public classroom in the state.¹⁷ The Supreme Court held that the pre-eminent purpose for posting the Ten Commandments on schoolroom walls was plainly religious in nature even though the Kentucky Legislature purported an avowedly secular purpose for the display. In *Wallace v. Jaffree*, the Supreme Court struck down an Alabama statute that provided for a period of meditation or voluntary prayer in public schools, as an endorsement of religion, which violated the First Amendment.¹⁸ The Supreme Court held that the Establishment Clause did not preclude states from providing an opportunity for school prayer, but that Alabama had affirmatively endorsed the particular religious practice of prayer.¹⁹

⁷ U.S. CONST. amend. 1.

⁸ *Aronow v. United States*, 432 F.2d 242, 243 (9th Cir. 1970)

⁹ *Id.*

¹⁰ *O'hair v. Murray*, 588 F.2d 1141, 1144 (5th Cir. 1979)

¹¹ *Id.*

¹² *Gaylor v. United States*, 74 F.3d 214, 216 (10th Cir. 1996).

¹³ *Id.*

¹⁴ *Schmidt v. Cline*, 127 F.Supp.2d 1169,1171 (D. Kan. 2000).

¹⁵ *Id.*

¹⁶ *Id.* at 1179.

¹⁷ *Stone v. Graham*, 449 U.S. 39, 43 (1980).

¹⁸ *Wallace v. Jaffree*, 472 U.S. 38, 84 (1984).

¹⁹ *Id.*

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Requiring the motto "IN GOD WE TRUST" to be posted in schools does not appear to be sufficiently similar to the activities successfully challenged in the *Graham* and *Jaffree* cases. "IN GOD WE TRUST" is used in many secular ways namely on all US money and has been consistently held not to be a government endorsement of religion outside the classroom context.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

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