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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/6/21

SPONSOR Gallegos LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE “In God We Trust” on Public Buildings SB 246

ANALYST Fischer

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		\$10.0	\$10.0	\$20.0	Nonrecurring	GSD – Personnel
		\$81.0		\$81.0	Nonrecurring	TRD – Motor Vehicle Division work
		\$70.0		\$70.0	Nonrecurring	TRD – Motor Vehicle Division Destruction of plates
<b>Total</b>		\$161.0	\$10.0	\$171.0		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

General Services Department (GSD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 246 provides for a new section of public purchases and property law allowing for private donations to fund the prominent display of “In God We Trust” and the American flag on state-owned buildings, public school and college buildings, and public library buildings. SB246 also adds a provision to the statute governing vehicle license plates, requiring that all plates contain the words “In God We Trust” and allows the Motor Vehicle Division of TRD to increase the price of vehicle registration to cover the costs of adding the words to the plate.

The effective date of this bill is July 1, 2021.

## **FISCAL IMPLICATIONS**

SB246 does not contain an appropriation. However, TRD reports costs to change the designs of their three standard registration plates (chile, yellow, and turquoise), 154 specialty plates, and 300 designs overall (prestige, Senate, House, motorcycle, etc.) This bill requires all registration plate designs to include “In God We Trust,” and the Motor Vehicle Division (MVD) would need to work with their vendor to redesign all 300 images. TRD reports this would cost \$250 per design for a total of \$75 thousand. There would also be an additional \$6,000 recut cost for a total \$81 thousand one-time cost. The effective date of July 1, 2021, means that TRD may be required to destroy \$60 thousand to \$80 thousand worth of plates.

HB246 requires donations to cover the cost of plaques, posters, or framed paper with the “In God We Trust” and American flag printing but not the personnel costs of hanging those plaques, posters, or frames. GSD noted the state owns approximately 800 buildings, and the time for installing the proposed plaques would be approximately one hour per installation. Based on an average personnel cost of \$25 per hour, the projected cost for installing all plaques would be approximately \$20 thousand.

## **SIGNIFICANT ISSUES**

There are two significant issues that may hamper TRD and GSD in implementing the requirements of SB246. For one, TRD reports it is not feasible for the department to have all registration plates redesigned, recreated, and ready for distribution by July 2021. Secondly, GSD reports it does not have contractual authority to change the exterior of the buildings it leases from private entities.

TRD also noted that placing “In God We Trust” on all New Mexico registration plates may be seen as a required religious message on an individual’s vehicle. Requiring this religious message on personal vehicles may result in lawsuits against the state or TRD for alleged violation of the U.S. and state constitutions. The vehicle registration fee could be alleged to be a burden to those persons who do not espouse or adhere to the sentiment in the national motto.

Specifically, TRD offered this analysis of the potential legal issues with requiring citizens to pay to have “In God We Trust” included on their license plates:

“The purpose of putting the national motto on license plates appears to have a secular purpose of acknowledging the national motto and its history. As such, it could be seen by the courts as a legitimate exercise of governmental power that does not coerce citizens to support or participate in any particular religion or its exercise. However, case law indicates that a substantial burden exists when a government forces a person to act, or refrain from acting, in violation of his or her religious beliefs, by threatening sanctions, punishments or denial of an important benefit as a consequence of non-compliance. So, the issue that could be before the courts, would be whether the cost of the registration fee and the consequences for failing to register a car (a penalty assessment misdemeanor per Section 66-3-18 NMSA 1978) and be required to put an “In God We Trust” plate on an individual’s car constitute a substantial burden in violation of free exercise and Establishment Clauses of the U.S. and state constitutions.

The issue is different with respect to placing “In God We Trust” on public buildings. TRD notes that courts have held that as long as the governmental purpose is a plausible secular

purpose and there is no requirement for people entering public buildings to express, adopt or risk association with any particular viewpoint, statutes requiring the inscription of the U.S. motto is neutral and generally applicable and no substantial burden is imposed on those who do not adhere to the sentiment in the motto.”

### **TECHNICAL ISSUES**

TRD notes that clarification is needed for language on page 4, line 12: “The division may issue registration plates that it has on hand on July 1, 2021, but all new orders for registration plates shall require ...” leaves some ambiguity. The department instead suggests, “The division may continue to issue registration plates from orders made prior to July 1, 2021, but all new orders starting July 1, 2021 for registration plates shall require ...” Without this clarification, there will also be plates that have been ordered but are not “on hand” as of July 1, 2021, that would have to be destroyed. This also adds clarification that plates that are not requested frequently but that are currently in inventory would not have the new motto until our next order is placed after the effective date of the bill and inventory of that plate type is running low. If this is not clarified, MVD risks the possibility of having to destroy \$60 thousand to \$80 thousand worth of registration plates.

### **ALTERNATIVES**

TRD suggests the placement of “In God We Trust” on license plates may best be reserved for a specialty plate or sticker that is available as an option for individuals to pay for and add to their license plate voluntarily, rather than as a requirement (and required cost) for all plates.

MF/rl