

1 **RESOLUTION RECOGNIZING RIGHT TO**
2 **PARTICIPATE IN RELIGIOUS**
3 **EXPRESSIONS IN PUBLIC SCHOOLS**

4 2006 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Parley G. Hellewell**

7 House Sponsor: Michael T. Morley

8
9 **LONG TITLE**

10 **General Description:**

11 This joint resolution of the Legislature recognizes the rights of public school students to
12 voluntarily participate in religious expression in public schools.

13 **Highlighted Provisions:**

14 This resolution:

15 ▶ recognizes the rights of public school students to voluntarily engage in prayer and
16 other expressions considered religious in nature in public schools.

17 **Special Clauses:**

18 None

19
20 *Be it resolved by the Legislature of the state of Utah:*

21 WHEREAS, a firm understanding of the proper and lawful roll of religious expression
22 is requisite to full participation in public institutions;

23 WHEREAS, a state of confusion and in some cases fear among the general citizenry
24 exists as to the proper role of religious expression in public schools and other public settings;

25 WHEREAS, the free exercise of religion is a fundamental right guaranteed by both the
26 United States Constitution and the Utah Constitution;

27 WHEREAS, the freedom of speech is a fundamental right guaranteed by both the



28 United States Constitution and the Utah Constitution;

29 WHEREAS, the First Amendment to the United States Constitution states, "Congress
30 shall make no law respecting an establishment of religion, or prohibiting the free exercise
31 thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably
32 to assemble";

33 WHEREAS, the Utah Constitution states, "The rights of conscience shall never be
34 infringed. The State shall make no law respecting an establishment of religion or prohibiting
35 the free exercise thereof;...There shall be no union of Church and State, nor shall any church
36 dominate the State or interfere with its functions. No public money or property shall be
37 appropriated for or applied to any religious worship, exercise or instruction, or for the support
38 of any ecclesiastical establishment.";

39 WHEREAS, the Utah Constitution also states: "No law shall be passed to abridge or
40 restrain the freedom of speech or of the press";

41 WHEREAS, prayer is fundamental to the exercise of both religion and free speech;

42 ~~Ŝ→ [WHEREAS, courts have ruled that voluntary student participation in prayer in public~~
43 ~~schools is permitted if the policy permitting it ensures that there is no direct or indirect~~
44 ~~coercion and no identification with a particular religion, and that the prayer should be~~
45 ~~nonsectarian, nondenominational, and nonproselytizing in character;]~~

45a WHEREAS, courts have upheld the right of students to spontaneously ~~Ĥ→~~ and
45b1 nondisruptively ~~←Ĥ~~ pray in school
45b settings, and school administrators and teachers are in no way permitted to discourage ~~Ĥ→~~
45c1 such ~~←Ĥ~~
45c religious expression, including prayer, by a student;

45d WHEREAS, in the classroom, instruction covering religious subject matter is
45e permitted, provided the teacher does not advocate religion in general or one or more religions
45f in particular; ~~←Ŝ~~

46 WHEREAS, students participating in the singing of songs that are religious in theme,
47 and expressions often related to holidays that are religious in nature, also enjoy legal protection
48 under the state and federal constitutions;

49 WHEREAS, the courts have established a three-part test for determining if a
50 government action violates the establishment of religion clause of the First Amendment to the
51 United States Constitution: (1) the government action must have a secular (nonreligious)
52 purpose; (2) the government action's primary purpose must not be to inhibit or to advance
53 religion; and (3) there must be no excessive entanglement between government and religion;
54 and

55 WHEREAS, the United States Supreme Court has ruled the union-of-church-and-state
56 ban applies only to circumstances that join a particular religious denomination and the state so
57 that the two function in tandem on an ongoing basis:

58 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah

59 recognizes the right of public school students to voluntarily participate in prayer, and also in
60 the singing of songs and in expressions related to holidays that are religious in nature, in public
61 schools, within known legal limits of religious expression, tolerance, civility, and dignity as
62 contemplated by this nation's founders.

63 BE IT FURTHER RESOLVED that a copy of this resolution be sent ~~H~~→ annually ←~~H~~ to
63a each student
64 currently enrolled in Utah's public schools, each parent of a student currently enrolled in Utah's
65 public schools, the Utah Parent Teacher Association, the Utah Education Association, the Utah
66 State Board of Education, the Utah State Office of Education, the Utah Association of
67 Counties, and the Utah League of Cities and Towns.

Legislative Review Note**as of 1-13-06 9:41 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SJR009

**Resolution Recognizing Right to Participate in Religious Expressions in
Public Schools**

01-Feb-06
11:39 AM

State Impact

Mailing requirements of this resolution can be handled within existing budgets.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst