

**RESOLUTION RECOGNIZING RIGHT TO
PARTICIPATE IN RELIGIOUS
EXPRESSIONS IN PUBLIC SCHOOLS**

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Parley G. Hellewell

House Sponsor: Michael T. Morley

Cosponsor: Brent H. Goodfellow

LONG TITLE

General Description:

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

Highlighted Provisions:

This resolution:

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

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

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

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

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

WHEREAS, the freedom of speech is a fundamental right guaranteed by both the United States Constitution and the Utah Constitution;

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

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

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

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

43 WHEREAS, courts have upheld the right of students to spontaneously and
44 nondisruptively pray in school settings, and school administrators and teachers are in no way
45 permitted to discourage such religious expression, including prayer, by a student;

46 WHEREAS, in the classroom, instruction covering religious subject matter is
47 permitted, provided the teacher does not advocate religion in general or one or more religions
48 in particular;

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

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

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

61 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah
62 recognizes the right of public school students to voluntarily participate in prayer, and also in
63 the singing of songs and in expressions related to holidays that are religious in nature, in public
64 schools, within known legal limits of religious expression, tolerance, civility, and dignity as
65 contemplated by this nation's founders.

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