

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

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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

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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 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;

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 to 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.

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**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**