

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. Morely

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.

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

WHEREAS, the Utah Constitution states, "The rights of conscience shall never be infringed. The State shall make no law respecting an establishment of religion or prohibiting the free exercise thereof;...There shall be no union of Church and State, nor shall any church dominate the State or interfere with its functions. No public money or

property shall be appropriated for or applied to any religious worship, exercise or instruction, or for the support of any ecclesiastical establishment.”;

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

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

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

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

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

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

and

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

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

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