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Welcoming Remarks

Governor Olene S. Walker

It is an honor for me to welcome you to the State of Utah and to the Brigham Young University campus. I commend the J. Reuben Clark Law School, the David O. McKay School of Education, and especially Cole Durham and the staff of the International Center for Law and Religion Studies for their global efforts in providing forums for all issues relating to religious freedoms.

Some may wonder about the connection between religious freedom and the Legislature's decision to issue school vouchers. From a historical perspective, it was often churches that housed the first schools in many areas prior to the existence of an organized community school. The issue of religion and public education was a critical point of contention in the efforts for the State of Utah to adopt a constitution and gain statehood. Certainly, the Federal Government was concerned that the majority religion had too great a voice in the educational systems in Utah at that time. The result was Section 1 of Article 10 of the Utah Constitution, which states: "The legislature shall provide for the establishment and maintenance of the states' education systems, including (a) a public education system which shall be open to all children of the state and (b) a higher education system. Both systems shall be free from sectarian control." Also, in Section 9 of Article 10 it states that "[n]either the State of Utah nor its political subdivisions may make any appropriations for the direct support of any school or educational institution controlled by any religious organizations."

To me, that statement makes it clear that public tax money cannot be used to fund private schools operated by religious organizations. In most communities where some form of vouchers have been implemented, the program has been dependent to some degree on religious organizations to provide either the program or the facilities. I recognize that one can interpret statements within a constitution many different ways. I suspect that ultimately the courts will decide how narrow or broad the statement regarding the appropriations for any school or educational institution controlled by any religious organization in our Constitution is. It is fortunate that

in this symposium we will have the opportunity to have a discussion not only on the Utah Constitution but the United States Constitution as it applies to vouchers.

The issue of vouchers is not new to the State of Utah. The issue had been before the Legislature for several years prior to passing, but it always failed to get out of the Rules Committee. I recognize that there are issues such as peace, the environment, and poverty that are far more critical to the future of the world than vouchers. However, at this moment in time, in terms of the future of education for the State of Utah, and perhaps for the United States, the voucher issue is at the forefront.

It is interesting that of the great teachers of the world who supported education, such as Confucius, Socrates, Plato, Aristotle, and Jesus Christ, it was only Jesus Christ that brought education to all. Education in all the other areas of the world meant educating the top socio-economic males. Hence, education in Asia and Europe became the privilege of the wealthy, the ruling, or the powerful.

The early settlers of our country brought many traditions from Europe, especially from Great Britain. However, it soon became clear that, unlike England, where academic schools were mainly for the wealthy and privileged with the less-qualified students becoming apprentices in the trades, the American model would develop in a more democratic system where everyone could have the opportunity to be educated.

Educational opportunities emerged in homes, neighborhoods, and communities. Early schools were in community buildings, homes, churches, and even barns. Basic reading, writing, and memorization skills were taught. History records that Boston Puritans established the first public school in Boston in 1635. Greek and Latin were the basic subjects. Other schools soon followed, and education was not limited totally to the elite. All males were included from the start, females were included early on, and African-Americans were included following the end of the Civil War.

My ancestors, and, I suspect, most of your ancestors, came to this country looking for opportunities to improve their lives and the lives of their children. They found opportunities through hard work and education. The penniless Irishmen found work in Boston, and Italians ended up starting their own businesses in New Jersey. Our country became great because everyone had the opportunity to succeed or better his or her life as a result of public education. The

African American finally gained the right to an education after the Civil War. It was further guaranteed with the *Brown v. Board of Education* decision. American society recognized that the whole community, state, and nation were better off if everyone had an equal opportunity to a quality education.

Last week I was speaking to the dean of one of the departments in a major university in our state. He said:

If vouchers had been in place when I was in high school, I probably would not have been in the position I am today. I came from a home, which would be classified in the lowest socio-economic level, but I had two friends who came from wealthy families. They were my role models and they taught me how important an education was. I suspect if vouchers were in place they would have gone to private schools, and I would never have had that association.

I have had the opportunity of visiting many urban schools across the country and find that, where the more stable families have left the public schools to attend private schools or have moved, the quality of education has somehow been diminished. Although I have never been a teacher, I have had the opportunity of working in the Salt Lake School District overseeing federal programs designed to help students attending at-risk schools. In most cases, a sufficient number of stable families was still involved to encourage improvements for all students. My great fear is that vouchers will further encourage these stable families to leave public schools and that the overall quality of education in these urban schools will diminish as a result.

It is the right and privilege of parents who can afford to send their child to a private school to do so, but it is unfair to ask the taxpayers of the state to assist in this process. It seems to me that such assistance would destroy the societal concept of equal education for all. For if I can afford, through public money, something better for my child, why should I care about the others? I believe such a system encourages the development of the "me" society rather than a society where the concern is about the greater good of the total community.

I recognize that everyone wants a better education for his or her child. I recall Maria, a parent of a student in one of the at-risk programs. Financial incentives were given to parents who would do homework with their child for an hour after school. Maria was

Hispanic and was very eager to run the copy machine instead of doing homework with the children. I kept relentlessly encouraging her to join her children in the program. She kept insisting that she would rather run the copy machine. Finally, one day when I was especially persistent, she broke down in tears and said, "you don't understand, I can't read, but I am here because I want my children to read and have a better life."

I hope that we are committed to making the life of every student better. But when legislation is passed that gives money to private schools and allows those schools to reject students who have learning disabilities, physical disabilities, and/or behavioral problems, the State is giving open encouragement for the development of schools for the elite and exclusive. If all students were like Oreo cookies¹—each on grade level or above, each well-behaved, and each dedicated to learning and being non-disruptive—it might not make a difference who is left in the classroom. But that is not the case.

Some argue that vouchers are for those in poverty that are trapped in failed schools, but I am not certain that we have failed schools in Utah. Having been in many of our schools, I know that we have outstanding teachers who are daily working to educate English language learner (ELL) students from all over the world. They may be frustrated with the impossible goals imposed on them, but they sense the real obligation they have to teach these students not only basic skills but also the English language.

One of the many problems with the voucher bill is the fact that most private school tuition exceeds the \$3000 of monetary assistance the bill provides. Even if you exclude all the schools with tuition over \$10,000, the average tuition of private schools is still \$4500. Families at or below the poverty level simply do not have the extra money to supplement the voucher money to pay tuition for private school. There are single mothers who are working two jobs and are without flexible transportation. Many parents are struggling just to keep food on the table and pay the rent. Any additional money for private schools is simply out of the question. I strongly suspect that vouchers will not help those with the greatest need. What is needed instead are additional teachers, volunteers, and staff for public

1. The reference to "Oreo cookies" is an allusion to an advertisement run by supporters of Utah's voucher program that was used to demonstrate the impact of voucher funding on public schools. The commercial can be viewed at <http://www.youtube.com/watch?v=Ind-g1kaL4o>.

schools that can work on an individual basis with those students needing extra help.

There are those who argue that vouchers are necessary because greater options are needed in education. We currently have fifty-eight charter schools with eight additional ones scheduled to open in the fall of 2008. We have both traditional and open-classroom charter schools. We have charter schools that cater to special talents such as music and drama. We have charter schools that specialize in math, science, and engineering. We have AP classes, International Baccalaureate programs, and concurrent enrollment for the gifted students attending public schools. We have open enrollment in eighty percent of our school districts. There are programs under Title I to help those who are falling behind. If you were to ask me whether the programs meet the needs of all students, I would answer no. I feel that we need to be continually working to improve the teaching and learning pedagogy to meet the needs of every individual child. This, of course, would necessitate additional funding. Nevertheless, all these options show that we do not need to jeopardize our public educational system through a voucher program to provide educational options for parents—options can be provided within the current framework.

The voucher bill also raises many practical questions that need to be answered. For example, who is going to build and operate all these private schools throughout the state? Most states have an existing network of religious schools. Utah does not, and the leaders of the predominant religion have stated that they will not be involved in K–12 education in this state beyond the current seminary programs. While I assume that other religious institutions may increase the number of schools if the voucher bill is passed, the increase would be limited. The economic history of operating K–12 private education programs indicates that a high return on the investment dollar cannot be expected. The most economically profitable part of private schools is their construction, not their operation.

Additionally, some existing private schools have made clear that they will not accept voucher money because of their concern for future state regulation. Challenger Schools, one of the few for-profit schools in Utah, has taken this position. If a substantial number of private schools adopts this view, do you then give the money directly

to the parents and let them launder the money to the school of their choice?

Even if the practical problems with a voucher system are resolved, there is still a problem with equal treatment under the law: How can you reconcile giving money to students when they leave the public schools to enter a private school while not giving money to those already attending private schools? It would seem to me that the current legislation allows those that have been paying for private schooling for their children to have an excellent argument that they are being discriminated against. In addition, in Utah we have thousands of home schoolers. Why shouldn't they also receive vouchers? If vouchers were to be provided for those two groups as well, the cost of the vouchers program greatly increases.

Traditionally, conservative Utahns have been against entitlements, yet the voucher bill passed by the Legislature is the most liberal entitlement in education provided by any state. Today, Utah has a strong economy, but during my twenty-five years in the political arena I have lived through two major downturns that placed the state in a position where we could not fully fund the growth in education. I realize that a clause was put in the vouchers bill that states that the funding would be dependent on revenue, but the reality of the voucher language would clearly indicate that it falls within the definition of an entitlement. I liked the statement in Lee Benson's recent article: "If vouchers is really about the free market, if that's what is going to make things better, then why are we offering government subsidies to open the free market? If you don't like government programs, why would you want to start the new government program of vouchers?"²

Utah has been very fortunate to have dedicated teachers and administrators, but we are far from having an educational utopia. I have given many speeches justifying our being last in the nation in per student funding by saying that, even though we may be last, we have a strong commitment to education. In the 1990s we generally ranked fifth in our effort to support education based on the percentage of personal income going to education. We can no longer say that because we now rank twenty-second. While more money is not the total answer to improving education, you can only starve a

2. Lee Benson, *Yay or Nay to Vouchers? I vote . . .*, DESERET NEWS, Oct. 21, 2007, at B1, available at <http://deseretnews.com/article/1,5143,695220518,00.html>.

horse so long before he fails to pull the cart. Utah cannot continually fall further and further behind other states and still expect to maintain a quality education system.

I would suggest that, as citizens, we need to continue to encourage the Governor and Legislature to fund more adequately our education system. In the state-by-state ranking of funding per student, Utah has been last in the nation for several years. While it is true that significant funding increases were given in this year's legislative session, the Legislature would have to repeat those increases for many years to move to the forty-ninth position in funding per pupil.

Some argue that the state would not be taking tax dollars from education by funding vouchers because the voucher money comes from sales tax and education money from income tax. That argument became meaningless when we amended our Utah Constitution to allow income tax money to be used to fund higher education. If we are using sales tax money to fund vouchers, the Legislature would simply have to use income tax money to a greater extent to fund higher education.

In a recent speech given at this university, I said that public education was not on life support but is in need of intensive care.³ That intensive care includes increasing teachers' salaries to attract the brightest and the best of college students to that profession. Class sizes need to be reduced. Additional funding needs to be given to meet the individual needs of those who are falling behind. Business leaders need to be involved in making certain that graduating seniors from either college or high school have the skills needed to succeed in today's world. Perhaps the most important need is to have parents be involved in the education of their children. Not one of these problems is solved—and some may be exacerbated—by the voucher program.

I hope that after the voucher debate is over, regardless of how the vote goes, we can earnestly work together to find ways to improve the quality of education in the state of Utah for all students. We have a proud heritage of excellence in public education; let us step up and demand that we continue that tradition.

3. Tad Walch, *Walker says Education 'Needs Intensive Care,'* DESERET NEWS, Sept. 21, 2007, at B1, available at <http://www.deseretnews.com/article/1,5143,695211914,00.html>.