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May 9, 2007

Senate Committee on Education
Texas State Senate
Sam Houston Building, Room 440
Austin, Texas 78711

**Re: Statement from John W. Whitehead, President
Regarding HB 3678 (“Religious Viewpoint Anti-Discrimination Law”)**

To Members of the Senate Committee on Education

I regret that I am unable to deliver the following statement in person. However, I have authorized Kelly Coghlan to sign in for me and read The Rutherford Institute’s statement regarding HB 3678, the “Religious Viewpoint Anti-Discrimination Law,” before the Texas Senate Education Committee.

For a quarter century, The Rutherford Institute has fought to protect the constitutional rights of citizens throughout the United States. The legislation before this committee, the Religious Viewpoint Anti-Discrimination Law (HB 3678) is a significant step in preventing invasions upon the free expression rights of students in Texas and will hopefully be used as a model throughout the country so that what happened to high school valedictorian Brittany McComb does not recur.

On June 15, 2006, Brittany was prepared to give a commencement address that was to be the crowning achievement of her public school years. After making many sacrifices in order to achieve the status as class valedictorian, Brittany was ready to give an uplifting and inspirational address to her classmates and their families about her life’s journey that included references to the most important aspect of that journey—her faith and religion. But school officials silenced Brittany in the midst of her address, cutting off her microphone once she began to speak about the role her Christian faith played in her life’s successes. For Brittany, her graduation went from an event where she was to be honored for

her outstanding success and talent to a moment where state officials made clear to her, and those in the audience, that her faith and religious beliefs were unwelcome and not fit to be expressed at a public gathering.

Unfortunately, what happened to Brittany is a far too common occurrence in this nation's public schools. In North Carolina, students have been prohibited from giving out information about church events to classmates. In New Jersey, the personal messages of graduating seniors in their yearbook pages were censored to remove scripture references and other religious remarks. In Virginia and New York, students have been threatened with suspension and other disciplinary actions for wearing unobjectionable t-shirts expressing their opposition to abortion. Bible verses were removed from the lockers of students in Pennsylvania, and a student's poster expressing her love for God was removed from a classroom display in Nevada. These actions stem from the prevailing and misguided notion that religion has no place in the public schools.

Enactment of HB 3678 will help make clear to educators and public school administrators that private religious speech is fully protected expression under the federal and state constitutions and not "second-class" speech that can be suppressed without any repercussion. The law would put school officials on notice that students are entitled to engage in speech that has a religious theme or viewpoint. These officials will be required to stop and consider the First Amendment rights of students and not engage in "knee-jerk" censorship of private speech that relates to faith or religion.

Just as important, the Act establishes a state policy "to eliminate any actual or perceived affirmative school sponsorship or attribution to the school district of a student's voluntary expression of a religious viewpoint[.]" In many cases, schools attempt to justify censorship of student speech on the basis that the school might be perceived as endorsing the religious viewpoint in violation of the Establishment Clause. This rationale sometimes succeeds in the courts. Thus, by codifying in the law what common sense teaches—that student speech is private speech and not government speech, Marian's Law would eliminate any doubt that a school does not improperly endorse student speech with a religious viewpoint simply because it allows that speech.

Texas can set an example for the nation by adopting the Religious Viewpoint Anti-Discrimination Act. It is time to educate educators that the First Amendment does not become irrelevant when the speech concerns religion and faith. It is time to affirm that students have a constitutional right to freely speak

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about their religious beliefs—which for many students is the defining aspect of their lives.

Finally, The Rutherford Institute will come to the defense of any schools that strive to assure freedom of expression under this Act and find their practices being challenged.

Thank you for your attention to this matter.

Sincerely yours,



John W. Whitehead
President