

No. 15-1591

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

NANCY LUND; LIESA MONTAG-SIEGEL; ROBERT VOELKER

Plaintiffs-Appellees,

v.

ROWAN COUNTY, NORTH CAROLINA

Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA AT GREENSBORO

**BRIEF OF AMICI CURIAE
STATE OF WEST VIRGINIA AND 12 OTHER STATES
SUPPORTING DEFENDANT-APPELLANT**

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INTRODUCTION AND IDENTITY OF *AMICI*

The States of West Virginia, Alabama, Arizona, Arkansas, Florida, Indiana, Michigan, Nebraska, Nevada, Ohio, Oklahoma, South Carolina, and Texas file this brief under Rule 29(a) of the Federal Rules of Appellate Procedure.¹

Amici have a significant interest in ensuring that deliberative bodies within their States retain a robust right to open public deliberations with a ceremonial invocation. The time-honored “practice of opening legislative sessions with prayer” dates to before the adoption of the federal Constitution and is “deeply embedded in the history and tradition of this country.” *Marsh v. Chambers*, 463 U.S. 783, 786, 792 (1983). Legislative prayer “lends gravity to public business, reminds lawmakers to transcend petty differences in pursuit of a higher purpose, and expresses a common aspiration to a just and peaceful society.” *Town of Greece v. Galloway*, 134 S. Ct. 1811, 1818 (2014).

Amici file this brief to protect the option for lawmakers themselves to lead ceremonial invocations. In the case below, the District Court concluded that lawmaker-led prayer falls outside the constitutional tradition recognized in *Marsh* and *Town of Greece*. A decision affirming the District Court would eliminate an important and widely used method of legislative prayer—one that does not require

¹ “[A] state may file an amicus-curiae brief without the consent of the parties or leave of court.” Fed. R. App. P. 29(a).

additional government bureaucracy to run and is a critical option for rural and poor local governments that cannot afford to hire a full-time chaplain or recruit volunteer clergy.

SUMMARY OF ARGUMENT

I. The District Court erred in concluding that lawmaker-led prayer is not within the constitutional tradition of legislative prayer recognized by the Supreme Court in *Marsh* and *Town of Greece*. According to the lower court, a prayer-giver's status as "a member of the legislative body or a non-member of the legislative body" is a "crucial" and "determinative" question under the Establishment Clause. But that conclusion does not square with a proper reading of either *Marsh* or *Town of Greece*.

A. Lawmaker-led prayer is fully consistent with what the Supreme Court has recognized to be the purpose of legislative prayer. Both *Marsh* and *Town of Greece* teach that legislative prayer is for the benefit of lawmakers themselves—to allow them to make a public and brief acknowledgment of their belief in a higher power. And while that can be achieved through a chaplain-led prayer, there is no clearer way for lawmakers to express their personal faith than to lead the prayers themselves.

B. The analysis below turned primarily on the District Court's concern that lawmaker-led prayer will increase government involvement in the legislative prayer process. But the lower court misunderstood the Supreme Court's concerns in *Town of Greece*, which were focused on the involvement of the legislature or the government *as a body*. Those concerns do not apply to the practice of lawmaker-

led prayer, which even the District Court recognized is nothing more than an individual lawmaker leading a prayer or invocation of his or her own choosing.

The District Court also concluded that lawmakers should not lead prayers because they have decisionmaking authority. But this is also directly contrary to *Town of Greece*, which makes clear that a lawmaker's mere policy-making power is not a bright-line prohibition on a lawmaker leading an invocation. The District Court misunderstood the Supreme Court's instruction that, on a case-by-case basis, actual proof of town leaders allocating benefits and burdens based on participation in prayer could render an otherwise-acceptable prayer practice unconstitutional.

C. Finally, the District Court's position on lawmaker-led prayer is also flawed because it ignores the frequency with which lawmaker-led prayer occurs. In *Town of Greece*, the Supreme Court explained that it is relevant if a prayer practice has withstood the critical scrutiny of time and political change. And as described below, lawmakers are overwhelmingly permitted to lead prayer before deliberative bodies at the state, county, and city levels.

II. The District Court's further assertion that there is a particular problem with *exclusive* reliance on lawmaker-led prayer is also incorrect and at odds with widespread practice.

A. In the District Court's view, exclusively lawmaker-led prayer practice is discriminatory because it excludes all faiths but those of the lawmakers. The

Supreme Court has specifically rejected, however, any notion that a lawmaking body must promote a diversity of religious views or make an effort to achieve religious balancing. The Supreme Court's requirement of nondiscrimination in prayer practices is far narrower—aimed only at prohibiting the deliberate advancement or denigration of a faith or faiths.

B. The District Court's objection to exclusively lawmaker-led prayer practice, like its earlier objection to lawmaker-led prayers in general, is also inconsistent with common practice. *Amici's* survey of publicly available meeting minutes and similar data revealed that in many of the instances where a deliberative body permits lawmaker-led prayers, it appears to rely exclusively on such prayers. In particular, among counties and cities in the Fourth Circuit, the reviewed data suggests that there are only a few entities that permit lawmaker-led prayers without relying exclusively on such prayers.

ARGUMENT

I. **THE DISTRICT COURT ERRONEOUSLY CONCLUDED THAT LAWMAKER-LED PRAYER FALLS OUTSIDE THE CONSTITUTIONAL TRADITION OF LEGISLATIVE PRAYER.**

The court below was wrong to treat “the identity of the prayer-giver, either as a member of the legislative body or a non-member of the legislative body,” as a “determinative difference[.]” between this case and the Supreme Court’s decisions upholding challenges to legislative prayer. *Lund v. Rowan Cnty.*, No. 1:13CV207, 2015 WL 2072345, at *9, *11 (M.D.N.C. May 4, 2015). In the District Court’s view, the fact that the lawmakers themselves delivered the prayers at meetings of the Rowan County Board of Commissioners was a “crucial” “distinction [that] matters under the Establishment Clause.” *Id.* at *9. That bright-line conclusion does not square with a proper reading of either *Marsh* or *Town of Greece*.

A. **Lawmaker-Led Prayer Falls Within The Tradition Of Legislative Prayer Recognized In *Marsh* And *Town Of Greece*.**

Twice in the past thirty-five years, the Supreme Court has affirmed that “the unambiguous and unbroken history of more than 200 years” of invocations before deliberative bodies shows “that legislative prayer presents no . . . potential for establishment.” *Marsh v. Chambers*, 463 U.S. 783, 791–92 (1983). When it comes to legislative prayer, the Supreme Court has instructed that “the Establishment Clause must be interpreted by reference to historical practices and understandings.” *Town of Greece v. Galloway*, 134 S. Ct. 1811, 1819 (2014)

(citation omitted). And this history shows that “[f]rom colonial times through the founding of the Republic and ever since, the practice of legislative prayer has coexisted with the principles of disestablishment and religious freedom.” *Marsh*, 463 U.S. at 786. Indeed, “the same week Members of the First Congress voted to appoint and to pay a Chaplain for each House,” they “also voted to approve the draft of the First Amendment for submission to the States.” *Id.* at 790. Because the practice of legislative prayer “was accepted by the Framers and has withstood the critical scrutiny of time and political change,” “there can be no doubt” that it is “compatible with the Establishment Clause.” *Town of Greece*, 134 S. Ct. at 1818–19 (citation omitted).

While neither *Marsh* nor *Town of Greece* specifically involved lawmaker-led prayer, a fair reading of both cases shows that lawmaker-led prayer falls within the tradition of legislative prayer that, as a general rule, presents no constitutional concerns. Both *Marsh* and *Town of Greece* teach that the purpose of legislative prayer “is largely to accommodate the spiritual needs of lawmakers.” *Town of Greece*, 134 S. Ct. at 1826 (plurality opinion). “The principal audience for these invocations is not, indeed, the public but lawmakers themselves, who may find that a moment of prayer or quiet reflection sets the mind to a higher purpose and thereby eases the task of governing.” *Id.* at 1825. Thus, members of the First Congress “‘join[ed] in the same act of worship’” when a chaplain led them in

prayer. *Marsh*, 463 U.S. at 791 (citations omitted). And the board members in *Town of Greece* “bowed their heads or made the sign of the cross” together under the leadership of a guest chaplain. 134 S. Ct. at 1818 (majority opinion).

What is clear from the cases, therefore, is that legislative prayer allows lawmakers *themselves* to make a public and “brief acknowledgment of their belief in a higher power.” *Town of Greece*, 134 S. Ct. at 1827–28 (plurality opinion). Indeed, the Court specifically singled out “members of town boards and commissions, who often serve part-time and as volunteers,” as lawmakers for whom “ceremonial prayer may . . . reflect the values they hold as private citizens.” *Id.* at 1826. For those individuals—*the very type of lawmakers at issue in this case*—“the prayer is an opportunity for them to show who and what they are.” *Id.*

As such, there “can be no doubt” that lawmaker-led prayer is “compatible with the Establishment Clause.” *Id.* at 1818–19 (majority opinion) (citation omitted). If legislative prayer is intended to allow lawmakers to “reflect the values they hold as private citizens,” then it stands to reason that lawmakers themselves should be able to lead the prayers. There is no clearer way for lawmakers to “show who and what they are,” as a spiritual matter, than to lead the prayers themselves.

B. The District Court Misunderstood The Supreme Court’s Concerns In *Town Of Greece* About Government Involvement.

1. The District Court’s analysis turned primarily on its concern with the extent of “government involvement” in the legislative prayer process. *Lund*, 2015

WL 2072345, at *10. Relying on statements by the Supreme Court in *Town of Greece*, the District Court reasoned that lawmaker-led prayer is inappropriate because that would make the individual lawmakers the “‘supervisors’ of the prayers” with editorial control over the content of the prayers. *Id.* In the District Court’s view, a lawmaker-led prayer would “constitut[e] a much greater and more intimate government involvement in the prayer practice than that at issue in *Town of Greece* or *Marsh.*” *Id.* In short, the District Court objected that lawmaker-led prayers are “effectively being delivered by the government itself.” *Id.* at *11.

But the District Court misunderstood the Supreme Court’s concerns in *Town of Greece*, which were focused on the involvement of the legislature or the government *as a body*. What the Supreme Court cautioned against in *Town of Greece* was “forc[ing] the legislatures that sponsor prayers . . . to act as supervisors and censors of religious speech.” *Town of Greece*, 134 S. Ct. at 1822 (emphasis added). “Our *Government*,” the Supreme Court stressed, “is prohibited from prescribing prayers” *Id.* (emphasis added). “Once it invites prayer into the public sphere, *government* must permit a prayer giver to address his or her own God or gods as conscience dictates” *Id.* (emphasis added).

Those concerns do not apply to the practice of lawmaker-led prayer, which even the District Court recognized is nothing more than an individual lawmaker leading a prayer or invocation of his or her own choosing. There is no suggestion

from the District Court or anyone else that the legislature as a body edits or supervises lawmaker-led prayers any more than it does chaplain-led prayers. The District Court's concern was that each *individual* lawmaker would be editing his or her own prayer as he or she "simultaneously deliver[ed] th[e] prayer[]." *Lund*, 2015 WL 2072345, at *10. That was not, however, the Supreme Court's worry in *Town of Greece*. The Supreme Court saw a problem with a lawmaking body as a whole dictating the content of prayers, not with individual lawmakers choosing prayers that "reflect the values they hold as private citizens" and "show who and what they are." *Town of Greece*, 134 S. Ct. at 1826 (plurality opinion).

In fact, government as a whole is arguably less entwined with lawmaker-led prayer than it is with chaplain-led prayer. In *Marsh*, chaplain-led prayer involved a permanent government-employed chaplain, paid by taxpayer funds. And in *Town of Greece*, the process for inviting and coordinating volunteer clergy from the community involved "[a] town employee . . . call[ing] the congregations listed in a local directory until she found a minister available for th[e] month's meeting." *Id.* at 1816 (majority op.). Lawmaker-led prayer, in contrast, does not require additional government bureaucracy or taxpayer expense. Indeed, for poor or rural counties and towns, lawmaker-led prayer may be a critically important means of ensuring that their local leaders can avail themselves of the long-recognized benefits of legislative prayer: "lend[ing] gravity to public business, remind[ing]

lawmakers to transcend petty differences in pursuit of a higher purpose, and express[ing] a common aspiration to a just and peaceful society.” *Id.* at 1818 (plurality opinion).

2. The District Court also concluded that lawmakers should not lead prayers because lawmakers have decisionmaking authority. “[L]egislators, unlike an appointed or volunteer chaplain, are elected decisionmakers who deliberate within the legislative body to whom the prayers are allegedly directed.” *Lund*, 2015 WL 2072345, at *9 n.5. Even if paid and employed by the government, the District Court stressed, “[a]n appointed chaplain possesses no such legislative, policy-making power.” *Id.*

But this is directly contrary to *Town of Greece*, which makes clear that a lawmaker’s mere policy-making power is not a bright-line prohibition on a lawmaker leading an invocation. In *Town of Greece*, the Supreme Court explained that actual proof of certain extreme circumstances, on a case-by-case basis, could render an otherwise-acceptable prayer practice unconstitutional. That means record evidence of lawmakers “direct[ing] the public to participate in the prayers, singl[ing] out dissidents for opprobrium, or *indicat[ing] that their decisions might be influenced by a person’s acquiescence in the prayer opportunity.*” *Town of Greece*, 134 S. Ct. at 1826 (plurality opinion) (emphasis added). Under *Town of Greece*, it is not enough that “constituents might feel pressure to join the prayers to

avoid irritating the officials who would be ruling on their petitions.” *Id.* There must be “evidentiary support,” the Supreme Court held, “that town leaders allocated benefits and burdens based on participation in the prayer, or that citizens were received differently depending on whether they joined the invocation or quietly declined.” *Id.* This is a “fact-sensitive” inquiry “that considers both the setting in which the prayer arises and the audience to whom it is directed.” *Id.* at 1825.

Whether there is actual evidence here of such actions by the Rowan County Commissioners is beyond the scope of this brief, which urges reversal based solely on the District Court’s erroneous conclusions about lawmaker-led prayer generally. Under *Town of Greece*, the District Court was wrong to conclude that the policy-making power of lawmakers is sufficient to categorically distinguish them from chaplains and thereby disqualify them from ever leading prayers before meetings. This error alone warrants a remand for reconsideration under the proper framework.

C. Lawmaker-Led Prayer Is Common Throughout The Country And The Fourth Circuit.

The District Court’s position on lawmaker-led prayer is also flawed because it ignores the frequency with which lawmaker-led prayer occurs. As the Supreme Court has explained, it is relevant if “history shows that [a] specific [prayer] practice is permitted” and “has withstood the critical scrutiny of time and political

change.” *Town of Greece*, 134 S. Ct. at 1819. And as described below, lawmakers are overwhelmingly permitted to lead prayer before deliberative bodies at the state, county, and city levels. This Court should look skeptically on a ruling that “would sweep away what has so long been settled” and “create new controversy and begin anew the very divisions along religious lines that the Establishment Clause seeks to prevent.” *Id.*

1. Across the nation, the majority of state and territorial legislatures rely on lawmaker-led invocations in some part. According to a 2002 national survey supplemented by *amici*’s research, every state legislative chamber but two continues the tradition of either legislative prayer or a moment of silence.² Of those, lawmakers lead the invocation on at least some occasions in 29 of 53 senate chambers³ and 26 of 51 house chambers. Addendum Tables of Prayer Practices (hereinafter “Add.”), Tab. 1 (Add. 2–10).

² Under threat of litigation, the Hawaii Senate ended its practice of legislative prayer in 2011. Mark Niese, *Hawaii Senate Ends Daily Chamber Prayers*, Associated Press, Jan. 21, 2011. The Massachusetts Senate also does not have any sort of opening invocation. *See, e.g.*, Mass. S., *Journal of the S.* 1 (June 4, 2015), available at <https://malegislature.gov/Legislation/Journals>.

³ The 2002 national survey counts Nebraska’s unicameral legislature as a senate chamber. The *amici*’s supplemental survey similarly treats the unicameral legislatures in Guam and the Virgin Islands as senate chambers.

Indeed, two states in the Fourth Circuit have enacted laws specifically to protect legislators who offer invocations. Virginia has provided that “[d]uring the time prior to the governing body’s actual call to order or convening of business, any expressions by members of the governing body or members of the public shall be held consistent with the individual’s First Amendment right of freedom of speech.” Va. Code § 15.2-1416.1. And South Carolina expressly authorizes members of its local deliberative bodies to open meetings with lawmaker-led prayer. S.C. Code § 6-1-160(B)(1) (empowering a deliberative body to “allow for an invocation . . . by . . . one of the public officials, elected or appointed”).

2. A survey by *amici* of publicly available sources revealed that lawmaker-led prayer is also quite common in deliberative bodies at the county and city level throughout the Fourth Circuit. Sampling the available recent minutes, agendas, video archives, and news articles, *amici* found that lawmaker-led prayer occurs in a vast number of counties and cities in this Circuit. Of 319 counties in the Fourth Circuit, data was available from 276, and *amici*’s research reveals that lawmaker-led prayer is permitted on at least some occasions in 166. Tab. 2, 4, 6, 8, 10 (Add. 11–12, 14–24, 26–30, 32–39, 42). *Amici* also surveyed 52 of the Circuit’s largest cities, and of the 49 for which data was available, city councils in 21 made use of lawmaker-led prayer in at least some instances. Tab. 3, 5, 7, 9, 11 (Add. 13, 25, 31, 40–41, 43).

Maryland. In 10 of the 22 counties in Maryland for which data was available and 2 of Maryland's most populous cities, the research found that lawmakers had led opening prayers. Tab. 2 (Add. 11–12). The counties include Anne Arundel, the fourth most populous Maryland county, *e.g.*, Anne Arundel Cnty. Council, *County Council Meetings 01. Introduction* (Apr. 22, 2015), <http://www.aacounty.org/VideoMediaExec/CC/County%20Council%20Meeting%2008%20April%2020%2C%202015/01-introduction-7>, and Carroll County, Maryland's eighth largest county, *see* John Fritze, *Supreme Court Decision Allows Carroll Co. Commissioners to Pray*, *Balt. Sun* (May 5, 2014), http://articles.baltimoresun.com/2014-05-05/news/bs-md-scotus-carroll-20140505_1_prayers-public-meetings-carroll-county; *Hake v. Carroll Cnty.*, 1:13-cv-01312-WDQ, 2014 WL 3974173, at *1 (D. Md. Aug. 13, 2014). The two cities are Hagerstown and Annapolis, the State's sixth and seventh largest. *E.g.*, Tab. 3 (Add. 13); Hagerstown City Council, *71st Regular Session, Work Session and Executive Session 4* (May 26, 2015), <http://www.hagerstownmd.org/ArchiveCenter/ViewFile/Item/885>; City of Annapolis City Council, *Regular Minutes–Final 1* (Mar. 9, 2015), <http://www.annapolis.gov/government/city-council/minutes-1992---2013>.

North Carolina. Lawmaker-led invocations are also widely used in North Carolina. Of the state's 100 counties, data was available for 92, of which 66 had lawmakers open meetings with a prayer in at least some instances. Tab. 4 (Add.

14–24); *e.g.*, Clev. Cnty. Bd. of Comm’rs, *Minutes* 1 (Mar. 3, 2015), <http://www.clevelandcounty.com/governing/minutes/minutes03032015.pdf> (county attorney led prayer); Clev. Cnty. Bd. of Comm’rs, *Minutes* 1 (Feb. 3, 2015), <http://www.clevelandcounty.com/governing/minutes/minutes02032015.pdf> (commissioner-led prayer). Of the ten most populous North Carolina cities, data was available for nine, and council members offer prayer on at least some occasions in three. Those three cities include North Carolina’s two largest, Charlotte and Raleigh. Tab. 5 (Add. 25); *e.g.*, City Council of the City of Raleigh, *Council Minutes* 1 (June 2, 2015), <https://www.raleighnc.gov/government/content/BoardsCommissions/Articles/CityCouncil.html> (councilmember-led invocation); City Council of the City of Raleigh, *Council Minutes* 1 (May 19, 2015), <https://www.raleighnc.gov/government/content/BoardsCommissions/Articles/CityCouncil.html> (clergy-led prayer).

South Carolina. An even stronger tradition of lawmaker-led prayer exists in South Carolina. Of the 46 counties, information was available in 43, revealing that lawmakers lead invocations in at least some instances in 36. Tab. 6 (Add. 26–30). Those include the two most populous counties, Greenville and Richland. *See id.*; *e.g.*, Greenville Cnty. Council, *Regular Council Meeting* 1 (Mar. 17, 2015), <https://www.greenvillemc.org/apps/DirectoryListings/CountyCouncilAgendas/>; Richland Cnty. Council, *Regular Session Minutes* 1 (June 2, 2015), <http://www.richlandonline.com/Portals/0/Departments/CountyCouncil/Minutes/Reg.06.02.15>.

pdf. Councilmembers offer prayer at meetings in 5 of the 10 most populous cities: Charleston, Greenville, Summerville, Sumter, and Hilton Head Island. Tab. 7 (Add. 31).

Virginia. Virginia is no different from its sister states. Of the Commonwealth's 95 counties, information was available for 85, and county supervisors lead prayers on at least some occasions in 48. Tab. 8 (Add. 32–39). In addition, councilmembers lead prayer at meetings in 7 of the 12 largest cities: Norfolk, Chesapeake, Hampton, Roanoke, Suffolk, Lynchburg, and Harrisonburg. Tab. 9 (Add. 40–41).

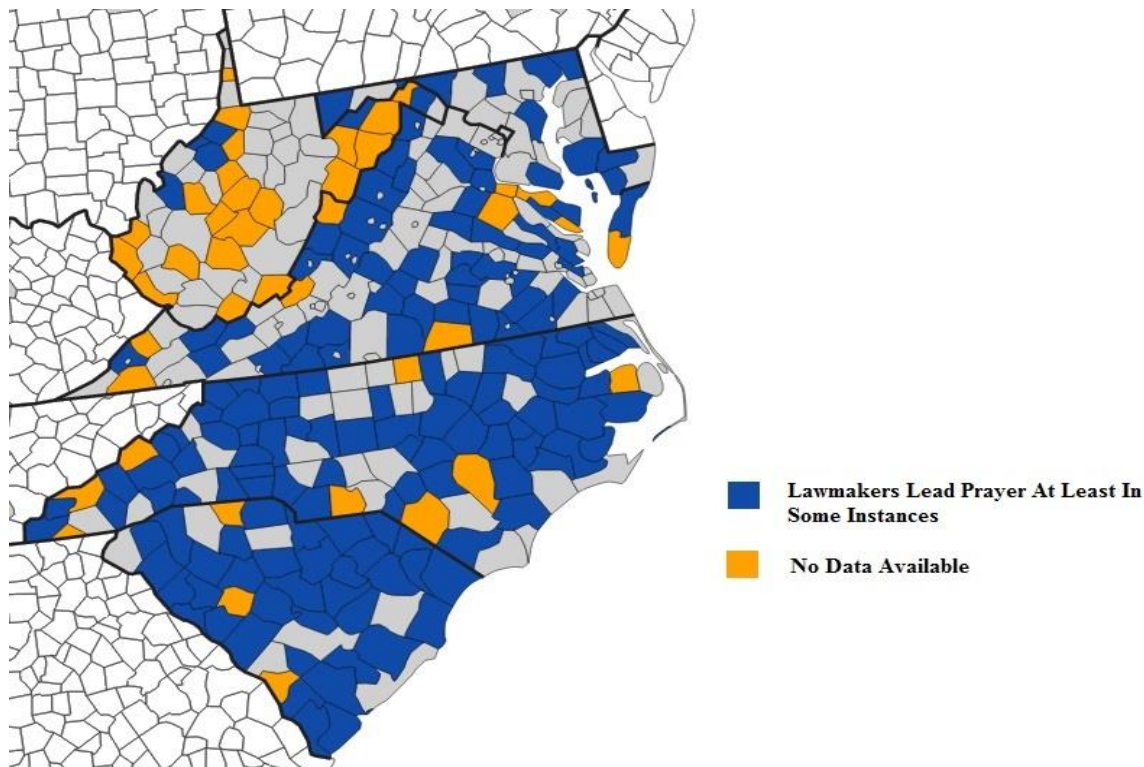
West Virginia. Data on West Virginia's prayer practices is comparatively hard to come by, as *amici* were only able to gather limited data for 34 of the 55 counties. In 6 of the 34 counties, lawmakers lead prayer in at least some instances. Tab. 10 (Add. 42). In Berkeley, for example, it appears that commissioners and clergy both can offer prayer. *See, e.g.,* Berkeley Cnty. Comm'n, *Berkley County Commission Meeting 1* (Apr. 13, 2000), <http://www.berkeleycountycomm.org/sharedimg/pdf/minutes/917.pdf> (invocation led by council member); Berkeley Cnty. Council, *Minutes 1* (June 4, 2015), <http://www.berkeleycountycomm.org/sharedimg/pdf/minutes/1820.pdf> (clergy led the invocation). Other sub-county units, like the Berkeley County Emergency Ambulance Authority, also appear to permit a member of the deliberative body to lead an opening prayer. Berkeley

Cnty. Emergency Ambulance Auth., *Minutes* 1 (Mar. 26, 2015), <http://www.bceaa.com/Forms/BCEAAMonthlyMeetingMinutes03-26-15.pdf>.

As for West Virginia's ten most populous cities, data was available for eight. Tab. 11 (Add. 43). For four of those eight—Charleston, Parkersburg, Wheeling, and Clarksburg—councilmembers lead prayer at least some of the time. *Id.*; see also Associated Press, *Parkersburg Council Asked to Drop Pre-meeting Lord's Prayer*, *Charleston Gazette* (July 7, 2015), <http://www.wvgazette.com/article/20150707/GZ01/150709521>.

* * *

The map below shows the frequency with which lawmaker-led prayer is utilized on some occasions in counties in the Fourth Circuit.



II. THE DISTRICT COURT WAS ALSO WRONG TO CONCLUDE THAT LEGISLATIVE PRAYER CANNOT BE EXCLUSIVELY LAWMAKER-LED.

Apparently recognizing the weakness of its bright-line position on lawmaker-led prayer, the District Court equivocated *in a footnote* as to whether lawmaker-led prayer could ever be constitutional. Despite declaring the identity of the prayer-giver a “crucial” and “determinative” factor, the court retreated to the view that “[t]he prayer-givers’ identities are significant [only] in relation to the surrounding circumstances.” *Lund*, 2015 WL 2072345, at *9 n.4. Lawmaker-led prayer, the court purported to clarify, is not “*per se* unconstitutional.” *Id.*

Pivoting, the District Court suggested that the real problem with the prayer practice is that it is *exclusively* lawmaker led. “Under a different, inclusive prayer practice,” the District Court explained in the footnote, “Commissioners might be able to provide prayers.” *Id.* at *9 n.4. But because the prayers are “delivered *solely* by the Commissioners,” “only the faiths of the five Commissioners are represented,” so the prayer practice “cannot be said to be nondiscriminatory.” *Id.* at *10 (emphasis added).

This narrower back-up position, however, is still incorrect and at odds with widespread practice. As explained below, the District Court misunderstood the Supreme Court in finding that exclusively lawmaker-led prayer is discriminatory. Moreover, while there are fewer instances where lawmaker-led prayer is the *sole*

practice than where it is just one available option, the data show that the exclusive use of lawmaker-led prayer is quite a common occurrence.

A. Exclusively Lawmaker-Led Prayer Is Not Discriminatory Under *Marsh* And *Town Of Greece*.

The Supreme Court's requirement of nondiscriminatory prayer practices is aimed at prohibiting the deliberate advancement or denigration of a faith or faiths. As the Court explained in *Town of Greece*, there is no *per se* requirement that a prayer practice reflect multiple faiths or even more than one faith. Thus, the town board in *Town of Greece* was not required "to search beyond its borders for non-Christian prayer givers in an effort to achieve religious balancing." *Town of Greece*, 134 S. Ct. at 1824. And in *Marsh*, the Nebraska legislature was permitted to hire a chaplain whose prayers reflected only one religious perspective. *Marsh*, 463 U.S. at 793. Concern arises, the Supreme Court explained, only if there is evidence over time that a prayer practice is being "exploited to proselytize or advance any one, or to disparage any other, faith or belief." *Town of Greece*, 134 S. Ct. at 1821–22, 1824 (quoting *Marsh*, 463 U.S. at 794–795).

As a general rule, an exclusively lawmaker-led prayer practice is fully consistent with this understanding of "nondiscrimination." By definition, the system limits the represented faiths to those that the individual lawmakers choose when they give their respective prayers, but that is no different than the systemic limitations upheld in *Town of Greece* and *Marsh*. Standing alone, there is nothing

about an exclusively lawmaker-led prayer practice that inherently suggests the deliberate advancement or denigration of a faith or faiths.

In fact, an exclusively lawmaker-led prayer practice is arguably less likely to result in the sort of deliberate discrimination that concerns the Supreme Court. With a chaplain-led prayer practice, the prayer-givers are chosen by a select few individuals for the sole purpose of giving an opening prayer. If desired, it would be relatively easy to bias the selection process toward the advancement or denigration of a particular faith or faiths. In contrast, with an exclusively lawmaker-led prayer practice, the prayer-givers are chosen by the entire electorate primarily for the purpose of governing, not the incidental task of giving an opening prayer. Even if desired, it would be quite difficult to sway the selection process toward the advancement or denigration of a particular faith or faiths.

The District Court's reasoning evidences a misunderstanding of the Supreme Court's concern about discrimination. According to the District Court, the exclusively lawmaker-led prayer practice in this case "inherently discriminates" because "all faiths but those of the five elected Commissioners are excluded." *Lund*, 2015 WL 2072345, at *10. But the Supreme Court specifically rejected any notion that a lawmaking body must "promote a diversity of religious views" or make an "effort to achieve religious balancing." *Town of Greece*, 134 S. Ct. at 1824 (internal quotations omitted). And perhaps more important, the District

Court's conclusion cannot be reconciled with *Marsh*, in which the Supreme Court upheld the "long tenure" of a single chaplain with a particular religious viewpoint. 463 U.S. at 793.

B. Exclusively Lawmaker-Led Prayer Is A Common Practice.

The District Court's objection to *exclusively* lawmaker-led prayer practice, like its earlier objection to lawmaker-led prayers in general, is also inconsistent with common practice. *Amici's* survey of publicly available meeting minutes and similar data revealed that in many of the instances where a deliberative body permits lawmaker-led prayers, it appears to rely exclusively on such prayers. In most cases, *amici* inferred exclusivity from the fact that no one other than a lawmaker offered a prayer in any of the meeting minutes or similar data reviewed. And in a few cases, exclusivity was confirmed by formal policies or statements by the deliberative bodies. While admittedly a rough estimate at best, *amici's* research ultimately found that the lion's share of the many entities that rely on lawmaker-led prayers do so exclusively.

The pattern is not obvious at the state level, where exclusive reliance on lawmaker-led prayer is relatively rare. Compared to the 55 state senate or house chambers that rely at least in part on lawmaker-led prayers, only two rely exclusively on such prayers: the Rhode Island Senate and the Maryland House of Delegates. See Nat'l Conf. of State Leg., *Inside the Legislative Process, Prayer*

Practices 5-148 (2002), available at <http://tinyurl.com/ncslprayer>; Kate Havard, *In Delegates They Trust: Maryland House Members Lead Secular Prayer*, Wash. Post (Mar. 9, 2013), http://www.washingtonpost.com/local/md-politics/in-delegates-they-trust-md-house-members-lead-secular-prayer/2013/03/09/571fef8e-810a-11e2-8074-b26a871b165a_story.html.

But among counties and cities in the Fourth Circuit, there are only a few entities that permit lawmaker-led prayers without relying exclusively on such prayers. Of the 276 counties in the Fourth Circuit from which data were available, *amici*'s research suggests that 144 begin their deliberative meetings exclusively with lawmaker-led invocations. Tab. 2, 4, 6, 8, 10 (Add. 11–12, 14–24, 26–30, 32–39, 42). This encompasses nearly all of the 166 counties reported earlier as permitting lawmaker-led prayer. Similarly, the data reviewed suggests that 19 city councils begin exclusively with lawmaker-led invocations, Tab. 3, 5, 7, 9, 11 (Add. 13, 25, 31, 40–41, 43), again nearly all of the 21 previously reported as making use of lawmaker-led prayer in at least some instances.

On a state-by-state basis, the breakdown is as follows:

Maryland. The data reviewed suggests that all 10 counties and 2 large cities in Maryland that use lawmaker-led prayers do so exclusively. Tab. 2–3 (Add. 11–123).

North Carolina. In North Carolina, it appears that commissioners exclusively lead invocations in 57 of the 66 counties that make use of lawmaker-led prayers. Tab. 4 (Add. 14–24). The 57 include two of the state’s most populous counties, Mecklenburg and Wake. Tim Funk and David Perlmutter, *Mecklenburg Comm’rs Leak, Cotham Battle Over Prayer*, The Charlotte Observer (May 18, 2015), <http://www.charlotteobserver.com/living/religion/article21332430.html>; Wake Cnty. Comm’n, *Meeting Procedures* (Aug. 7, 2013), <http://www.wake.gov.com/commissioners/Pages/meetingprocedures.aspx>. The reviewed data also suggests that 1 of the 3 large cities that rely on lawmaker-led prayers—Charlotte, the state’s largest city—does so exclusively. Tab. 5 (Add. 25); e.g., Charlotte City Council, *2nd Monday–City Council–Business*, CharlotteNC.gov (June 2, 2015), http://charlottenc.granicus.com/MediaPlayer.php?view_id=2&clip_id=2699.

South Carolina. All the reviewed data suggests that commissioners exclusively lead invocations in 32 of the 36 South Carolina counties that use lawmaker-led prayers. Tab. 6 (Add. 26–30). And the data suggests that in all 5 large cities that make use of lawmaker-led prayers, councilmembers do so exclusively. Tab. 7 (Add. 31).

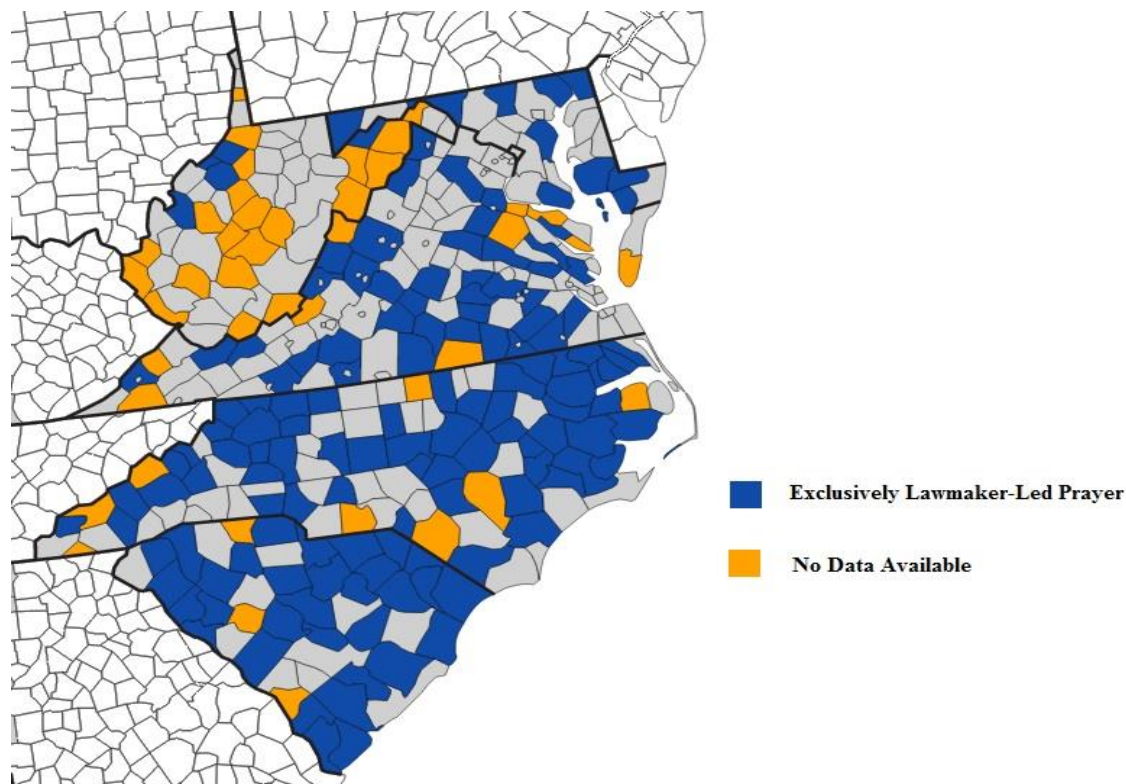
Virginia. Based on the data reviewed, *amici* believe that supervisors in 40 counties in Virginia lead invocations exclusively, of the 48 that make use of lawmaker-led prayers. Tab. 8 (Add. 32–39). Those 40 include Chesterfield

County, Virginia’s fourth largest county. Chesterfield Cnty. Bd. of Sup’rs Invocation Policy (Jan. 1, 2015). The overlap among Virginia’s large cities is more complete; of the seven identified as using lawmaker-led prayer, all appear to do so exclusively. Tab. 9 (Add. 40–41).

West Virginia. In West Virginia, the reviewed data suggests that lawmakers lead prayers exclusively in five of the six counties, and all four of the large cities, that were earlier identified as relying on lawmaker-led prayers. Tab. 10–11 (Add. 42–43).

* * *

Based on *amici’s* research, the map below shows the frequency with which lawmaker-led prayer is exclusively utilized in counties in the Fourth Circuit.



CONCLUSION

The District Court should be reversed.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because this brief contains 5,334 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).
2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman.

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CERTIFICATE OF SERVICE

I certify that on August 3, 2015, the foregoing document was served on the counsel of record for all parties through the CM/ECF system. Eight paper copies of this brief will be sent to the Clerk of Court via Federal Express.

/s/ Elbert Lin
Elbert Lin

August 3, 2015
Date

ADDENDUM: TABLES OF PRAYER PRACTICES

Table 1	Prayer Practices of the State and Territorial Legislatures (Add. 2)
Table 2	Lawmaker-Led Prayer Practices in Maryland Counties (Add. 11)
Table 3	Lawmaker-Led Prayer Practices in the Ten Most Populous Maryland Cities (Add. 13)
Table 4	Lawmaker-Led Prayer Practices in North Carolina Counties (Add. 14)
Table 5	Lawmaker-Led Prayer Practices in the Ten Most Populous North Carolina Cities (Add. 25)
Table 6	Lawmaker-Led Prayer Practices in South Carolina Counties (Add. 26)
Table 7	Lawmaker-Led Prayer Practices in the Ten Most Populous South Carolina Cities (Add. 31)
Table 8	Lawmaker-Led Prayer Practices in Virginia Counties (Add. 32)
Table 9	Lawmaker-Led Prayer Practices in the Twelve Most Populous Virginia Cities (Add. 40)
Table 10	Lawmaker-Led Prayer Practices in West Virginia Counties (Add. 42)
Table 11	Lawmaker-Led Prayer Practices in the Ten Most Populous West Virginia Cities (Add. 43)

Table 1. Prayer Practices of the State and Territorial Legislatures.

State or Territory	Member Leads Prayer	Clergy Leads Prayer	Moment of Silence	No Prayer and No Moment of Silence
<i>Alabama</i>	Senate, House	Senate, House		
<i>Alaska</i>	Senate, House	Senate, House		
<i>American Samoa</i>	Senate	House		
<i>Arizona</i>		Senate, House		
<i>Arkansas</i>	Senate, House	Senate, House		
<i>California</i>	Senate	Senate, House		
<i>Colorado</i>	Senate	Senate, House		
<i>Connecticut</i>	Senate, House	Senate, House		

State or Territory	Member Leads Prayer	Clergy Leads Prayer	Moment of Silence	No Prayer and No Moment of Silence
<i>Delaware</i>	House	Senate, House		
<i>District of Columbia</i>			City Council	
<i>Florida</i>	Senate, House	Senate, House		
<i>Georgia</i>	Senate	Senate, House		
<i>Guam</i>		Legis.		
<i>Hawaii</i>	House	House		Senate
<i>Idaho</i>	Senate, House	Senate, House		
<i>Illinois</i>		Senate, House		

State or Territory	Member Leads Prayer	Clergy Leads Prayer	Moment of Silence	No Prayer and No Moment of Silence
<i>Indiana</i>	Senate	Senate, House		
<i>Iowa</i>	Senate, House	Senate, House		
<i>Kansas</i>	Senate, House	Senate, House		
<i>Kentucky</i>		Senate, House		
<i>Louisiana</i>	Senate, House	Senate, House		
<i>Maine</i>		Senate, House		
<i>Maryland</i>	House	Senate		
<i>Massachusetts</i>		House		Senate
<i>Michigan</i>	House	Senate, House		
<i>Minnesota</i>		Senate, House		

State or Territory	Member Leads Prayer	Clergy Leads Prayer	Moment of Silence	No Prayer and No Moment of Silence
<i>Mississippi</i>	House	Senate, House		
<i>Missouri</i>	House	Senate, House		
<i>Montana</i>	Senate, House	Senate, House		
<i>Nebraska</i>	Legis.	Legis.		
<i>Nevada</i>	Senate	Senate, House		
<i>New Hampshire</i>		Senate, House		
<i>New Jersey</i>		Senate, House		
<i>New Mexico</i>	Senate	Senate, House		
<i>New York</i>		Senate, House		

State or Territory	Member Leads Prayer	Clergy Leads Prayer	Moment of Silence	No Prayer and No Moment of Silence
<i>North Carolina</i>	Senate, House	Senate, House		
<i>North Dakota</i>		Senate, House		
<i>Northern Mariana Islands</i>	Senate	Senate	House	
<i>Ohio</i>		Senate, House		
<i>Oklahoma</i>	Senate, House	Senate, House		
<i>Oregon</i>	Senate	Senate, House		
<i>Pennsylvania</i>		Senate, House		
<i>Puerto Rico</i>		Senate, House		

State or Territory	Member Leads Prayer	Clergy Leads Prayer	Moment of Silence	No Prayer and No Moment of Silence
<i>Rhode Island</i>	Senate House	House		
<i>South Carolina</i>		Senate, House		
<i>South Dakota</i>		Senate, House		
<i>Tennessee</i>	Senate, House	Senate House		
<i>Texas</i>	Senate	Senate, House		
<i>Utah</i>	Senate, House	Senate, House		
<i>Vermont</i>	House	Senate, House		
<i>Virginia</i>	Senate, House	Senate, House		
<i>Virgin Islands</i>		Legis.		

State or Territory	Member Leads Prayer	Clergy Leads Prayer	Moment of Silence	No Prayer and No Moment of Silence
<i>Washington</i>	Senate, House	Senate, House		
<i>West Virginia</i>	Senate, House	Senate, House		
<i>Wisconsin</i>	House	Senate, House		
<i>Wyoming</i>		Senate, House		

The data in Table 1 comes from and supplements a 2002 national survey. Nat'l Conf. of State Leg., *Inside the Legislative Process, Prayer Practices* 5-148 (2002), <http://tinyurl.com/ncslprayer>.

The following sources correct omissions and later changes to the practices reported in the survey: Conn. H.R. No. 5 (2015); 2 Guam Code § 1112; Guam S. Standing R. § 2.08; N.Y. Assemb. R. VI, § 2(b); N.J. Gen. Assemb. R. 9:1; Ore. H. R. 4.01; N.Y. S. R. IX, § 4(a); Miss. S. R. 25(2); N.C. S. R. 3; Kate Havard, *In Delegates They Trust: Maryland House Members Lead Secular Prayer*, Wash. Post (Mar. 9, 2013), <http://www.washingtonpost.com/local/md-politics/in->

delegates-they-trust-md-house-members-lead-secular-prayer/2013/03/09/571fef8e-810a-11e2-8074-b26a871b165a_story.html; *Prayers and Public Meetings Don't Mix, Critic Says*, News Journal, 2009 WLNR 26228629 (Dec. 31, 2009); Deanna Martin, *Prayer Returns to the Ind. House*, Associated Press (Nov. 19, 2008); Ind. S., S. J. 1 (Nov. 19, 2013) (member offered prayer); e.g., Colo. S. J. (70th Gen. Assemb., 1st Sess.) (Jan. 26, 2015) (by the chaplain); Colo. S. J. (67th Gen. Assemb., 2d Sess.) (Mar. 30, 2010) (by Sen. Tapia); Colo. S. J. (64th Gen. Assemb., 1st Sess.) (Jan. 9, 2003) (by Sen. Hanna); S.C.H.R., *Wednesday, July 8, 2015 Pt. 1*, S.C. Leg. Video Archives, <http://www.scstatehouse.gov/video/videofeed.php>; S.C.S., *Tuesday, July 7, 2015 Pt. 1*, S.C. Leg. Video Archives, <http://www.scstatehouse.gov/video/videofeed.php>; D.C. City Council, *Agenda 1* (July 14, 2015), <http://dccouncil.us/videos/archive/>; Freedom from Religion Foundation, *North Carolina Senate Prayers* (Jan. 26, 2011-Jan. 5, 2012), <http://ffrf.org/uploads/legal/NCSenatePrayers.pdf>; Okla. S., S. J. 901 (Apr. 14, 2015); N. Mar. I. S., *Rules of the Senate 1* (May 1, 2015); R.I. H.R., *Rhode Island House of Representatives June 5, 2013*, YouTube (June 6, 2013), <https://www.youtube.com/watch?v=6vXFolcdl10>; Tenn. H.R., *House Session – 12th Legislative Day* (Mar. 16, 2015), http://tnga.granicus.com/MediaPlayer.php?view_id=280&clip_id=10356 (member offered prayer); P.R.S.,

Diario de Sesiones 1 (May 18, 2015), <http://senado.pr.gov/Diario%20de%20Sesiones/051815.pdf> (prayer by clergy).

Table 2. Lawmaker-Led Prayer Practices in Maryland Counties

County Name	Who Offers Prayer	Source
<i>Anne Arundel</i>	Lawmaker	<i>E.g., Anne Arundel Cnty. Council, Apr. 20, 2015 County Council Meetings</i> (Apr. 22, 2015), http://www.aacounty.org/VideoMediaExec/CC/County%20Council%20Meeting%2008%20April%2020%2C%202015/01introduction-7 .
<i>Carroll</i>	Lawmaker	John Fritze, <i>Supreme Court Decision Allows Carroll Co. Commissioners to Pray</i> , <i>The Balt. Sun</i> (May 05, 2014), http://articles.baltimoresun.com/2014-05-05/news/bs-md-scotus-carroll-20140505_1_prayers-public-meetings-carroll-county .
<i>Cecil</i>	Lawmaker	<i>E.g., Cecil Cnty. Council, Legislative Session Minutes</i> 4-5 (June 17, 2014), http://www.ccgov.org/06.17.14.legislativeminutes.pdf .
<i>Dorchester</i>	Lawmaker	<i>E.g., Cnty. Council of Dorchester Cnty., Regular Meeting Minutes</i> 1 (May 19, 2015), http://docogonet.com/uploads/File/Regular%20Meeting%20Minutes%20May%2019%202015.pdf .
<i>Garrett</i>	Lawmaker	<i>E.g., Audio Public Meeting – Tuesday June 16, 2015</i> (June 21, 2015), https://www.garrettcounty.org/commissioners/audio-video-meetings .
<i>Harford</i>	Lawmaker	Jonathan Pitts and Pamela Wood, <i>Supreme Court to Consider Prayer at Government Meetings</i> , <i>The Balt. Sun</i> , (August 10, 2013), http://articles.baltimoresun.com/2013-08-10/news/bs-md-prayer-at-meetings-20130810_1_prayer-policy-christian-prayer-government-meetings .

County Name	Who Offers Prayer	Source
<i>Saint Mary's</i>	Lawmaker	<i>E.g., St. Mary's Cnty., Md., Gov't, Comm'rs of St. Mary's Cnty. 04/14/15, YouTube (Apr. 16, 2015), https://www.youtube.com/watch?v=pip0d2wJ_7U.</i>
<i>Somerset</i>	Lawmaker	<i>E.g., Bd. of Cnty. Commr's for Somerset Cnty., Tuesday, June 2, 2015 1 (June 2, 2015), http://www.co.somerset.md.us/minutes/Comm6_2_2015.pdf.</i>
<i>Washington</i>	Lawmaker	<i>E.g., Washington Cnty. Bd. of Comm'rs, June 2, 2015 Approved Minutes (June 2, 2015), http://www.washco-md.net/commissioners/packets/2015/150602/150602.pdf.</i>
<i>Wicomico</i>	Lawmaker	<i>E.g., PAC 14, Wicomico County Council Meeting 2.3.15 Part 1, YouTube (Feb. 4, 2015), https://www.youtube.com/watch?v=RcoQ0LOUoPQ.</i>

Table 3. Lawmaker-Led Prayer Practices in the Ten Most Populous Maryland Cities

City Name	Who Offers Prayer	Source
<i>Hagerstown</i>	Lawmaker	<i>E.g., Hagerstown City Council, 71st Regular Session, Work Session and Executive Session 4 (May 26, 2016), http://www.hagerstownmd.org/ArchiveCenter/ViewFile/Item/885.</i>
<i>Annapolis</i>	Lawmaker	<i>E.g., Annapolis City Council, Regular Minutes – Final 1 (Mar. 9, 2015), https://annapolismd.legistar.com/Calendar.aspx.</i>

Table 4. Lawmaker-Led Prayer Practices in North Carolina Counties

County Name	Who Offers Prayer	Source
<i>Alamance</i>	Lawmaker	<i>E.g.</i> , Alamance Cnty. Bd. of Comm'rs, <i>Minutes of the Regular Meeting 1</i> (May 18, 2015), http://alamancecountync.iqm2.com/Citizens/FileOpen.aspx?Type=15&ID=1193&Inline=True .
<i>Alexander</i>	Lawmaker	<i>E.g.</i> , Alexander Cnty. Bd. of Comm'rs, <i>Regular Meeting 1</i> (June 8, 2015), http://alexandercountync.gov/minutes-agendas/2015-docs/20150608m.pdf .
<i>Alleghany</i>	Lawmaker	<i>E.g.</i> , Alleghany Cnty. Bd. of Comm'rs, <i>Agenda 1</i> (May 18, 2015), http://www.alleghanycounty-nc.gov/minutes/05-18-15.pdf .
<i>Ashe</i>	Lawmaker	<i>E.g.</i> , Ashe Cnty. Comm'n, <i>Meeting Minutes – Final 1</i> (Apr. 6, 2015), https://ashecounty.legistar.com/Calendar.aspx .
<i>Beaufort</i>	Lawmaker	<i>E.g.</i> , Cnty. Council of Beaufort Cnty., <i>Agenda 1</i> (June 8, 2015), http://www.bcgov.net/departments/Administrative/beaufort-county-council/council-meetings/agendas/2015/060815.pdf .
<i>Bertie</i>	Lawmaker	<i>E.g.</i> , Bertie Cnty. Bd. of Comm'rs, <i>Regular Meeting 1</i> (May 4, 2015), http://www.co.bertie.nc.us/commissioners/meetings/2015/minutes/5-4-15min.pdf .
<i>Buncombe</i>	Lawmaker	<i>E.g.</i> , BCGOVTV, <i>Bd. of Comm'rs' Regular Meeting (June 2, 2015)</i> , YouTube (June 3, 2015), https://www.youtube.com/watch?v=cCk7wX2W9-g .
<i>Caldwell</i>	Lawmaker	<i>E.g.</i> , Caldwell Cnty. Bd. of Comm'rs, <i>Minutes 1</i> (June 1, 2015), https://ccgov.s3.amazonaws.com/portal/5591a08dc6bb5.pdf .

County Name	Who Offers Prayer	Source
<i>Camden</i>	Lawmaker	<i>E.g.</i> , Camden Cnty. Bd. of Comm'rs, <i>Minutes 1</i> (Mar. 2, 2015), http://www.camdencountync.gov/government/board-of-commissioners/meeting-minutes/category/101-2015 .
<i>Catawba</i>	Lawmaker	<i>E.g.</i> , Catawba Cnty. Bd. of Comm'rs, <i>Regular Session 525</i> (May 18, 2015), http://www.catawbacountync.gov/commish/Minutes/051815min.pdf .
<i>Chatham</i>	Lawmaker	<i>E.g.</i> , Chatham Cnty. Bd. of Comm'rs, <i>Meeting Minutes 1</i> (May 4, 2015), http://www.chathamnc.org/index.aspx?page=1797 .
<i>Cherokee</i>	Lawmaker or Employee	<i>E.g.</i> , Cherokee Cnty. Bd. of Comm'rs, <i>A Regular Meeting of the Cherokee County Board of Commissioners 1</i> (May 18, 2015), http://www.cherokeecounty-nc.gov/Modules/ShowDocument.aspx?documentid=1821 (lawmaker-led prayer); Cherokee Cnty. Bd. of Comm'rs, <i>A Regular Meeting of the Cherokee County Board of Commissioners 1</i> (Apr. 20, 2015), http://www.cherokeecounty-nc.gov/Modules/ShowDocument.aspx?documentid=1809 (employee-led prayer).
<i>Chowan</i>	Lawmaker	<i>E.g.</i> , Chowan Cnty. Bd. of Comm'rs, <i>Regular Meeting 1</i> (Apr. 6, 2015), http://www.chowancounty-nc.gov/vertical/sites/%7B10E82D50-AAE0-43D7-A98A-42E82683885E%7D/uploads/April_6_minutes.pdf .

County Name	Who Offers Prayer	Source
<i>Cleveland</i>	Lawmaker or Employee	<i>E.g.</i> , Cleveland Cnty. Bd. of Comm'rs, <i>Minutes 1</i> (Mar. 3, 2015), http://www.clevelandcounty.com/governing/minutes/minutes03032015.pdf (employee-led prayer); Cleveland Cnty. Bd. of Comm'rs, <i>Minutes 1</i> (Feb. 3, 2015), http://www.clevelandcounty.com/governing/minutes/minutes02032015.pdf (lawmaker-led prayer).
<i>Columbus</i>	Lawmaker	<i>E.g.</i> , Columbus Cnty. Bd. of Comm'rs, <i>Agenda and Backup 1</i> (May 18, 2015), http://columbusco.org/Portals/0/Minutes/2010s/2015-05-18.pdf .
<i>Craven</i>	Lawmaker	<i>E.g.</i> , Craven Cnty. Bd. of Comm'rs, <i>Regular Meeting</i> , CTV10 (Jan. 20, 2015), http://www.ctv10.com/craven_boc_january_20_2015.htm .
<i>Cumberland</i>	Lawmaker	<i>E.g.</i> , Cumberland Cnty. Bd. of Sup'rs, <i>Minutes 1</i> (Apr. 14, 2015), http://www.cumberlandcounty.virginia.gov/supervisors/docs/2015/041415.BOS.6pm.minutes.pdf .
<i>Davidson</i>	Lawmaker	<i>E.g.</i> , Davidson Cnty. Bd. of Comm'rs, <i>Minutes of the Regular Board of Commissioners Meeting 1</i> (June 9, 2015), http://www.co.davidson.nc.us/commissioners/MinutesAndAgendas.aspx
<i>Davie</i>	Lawmaker or Clergy	<i>E.g.</i> , Davie Bd. of Comm'rs, <i>Minutes 1</i> (Nov. 3, 2014), http://www.daviecountync.gov/ArchiveCenter/ViewFile/Item/427 (lawmaker-led prayer); Davie Bd. of Comm'rs, <i>Minutes 1</i> (Feb. 2, 2015), http://www.daviecountync.gov/ArchiveCenter/ViewFile/Item/445 (clergy-led prayer).

County Name	Who Offers Prayer	Source
<i>Duplin</i>	Lawmaker	<i>E.g.</i> , Duplin Cnty. Bd. of Comm'rs, <i>Minutes 1</i> (July 6, 2015), http://www.duplincountync.com/minutes/2015%20minutes/07062015meeting.pdf .
<i>Franklin</i>	Lawmaker	<i>E.g.</i> , Franklin Cnty. Bd. of Comm'rs, <i>Agenda Packet</i> (July 6, 2015), http://files.www.franklincountync.us/commissioners/franlin-county-comissioners-links/AGENDA_PACKET_-_July_6_2015_Part_1.PDF .
<i>Gaston</i>	Lawmaker	<i>E.g.</i> , Gaston Cnty. Bd. of Comm'rs, <i>Regular Session 1</i> (Jan. 27, 2015), http://www.gastongov.com/departments/county-commission/agendas-minutes-meeting-schedule .
<i>Gates</i>	Lawmaker	<i>E.g.</i> , Gates Cnty. Bd. of Comm'rs, <i>Regular Meeting Minutes 1694</i> (June 3, 2015), http://www.gatescounty.govoffice2.com/vertical/sites/%7BC4993D33-7F3A-4388-B179-2EC1739C7E2E%7D/uploads/6-3-15_Approved_Minutes.pdf .
<i>Graham</i>	Lawmaker	<i>E.g.</i> , Graham Cnty. Bd. of Comm'rs, <i>Regular Meeting 1</i> (June 2, 2015), http://www.grahamcounty.org/forms/1/2015/6/20150602Regular.pdf .
<i>Granville</i>	Lawmaker	<i>E.g.</i> , Bd. of Comm'rs of Granville Cnty., <i>Minutes 1</i> (June 1, 2015), http://www.granvillenc.govoffice2.com/vertical/sites/%7BF819B1A2-6E50-4666-BDD0-AE938210631C%7D/uploads/June_1_2015_Minutes.pdf .

County Name	Who Offers Prayer	Source
<i>Greene</i>	Lawmaker	<i>E.g.</i> , Greene Cnty. Bd. of Cnty. Comm'rs, <i>Agenda—Meeting 1</i> (June 15, 2015), http://www.co.greene.nc.us/agendas-minutes .
<i>Halifax</i>	Lawmaker	<i>E.g.</i> , Cnty. of Halifax Bd. of Comm'rs, <i>Regular Meeting 166</i> (Feb. 2, 2015), http://www.halifaxnc.com/index.php?option=com_content&view=article&id=35&Itemid=3.aspx .
<i>Harnett</i>	Lawmaker	<i>E.g.</i> , Harnett Cnty. Bd. of Comm'rs, <i>Minutes of Regular Meeting 1</i> (June 15, 2015), http://www.harnett.org/boc/ .
<i>Haywood</i>	Lawmaker	<i>E.g.</i> , Haywood Cnty. Comm'rs, <i>Regular Meeting 1</i> (June 1, 2015), http://www.haywoodnc.net/downloads/commissioners/agmin2015/bocc060115/min06012015.pdf .
<i>Henderson</i>	Lawmaker, Employee, or Clergy	<i>E.g.</i> , Henderson Cnty. Bd. of Comm'rs, <i>Minutes 1</i> (May 20, 2015), http://www.hendersoncountync.org/agendas/150520m.pdf (employee-led prayer); Henderson Cnty. Bd. of Comm'rs, <i>Minutes 1</i> (June 1, 2015), http://www.hendersoncountync.org/agendas/150504m.pdf (clergy-led prayer); Henderson Cnty. Bd. of Comm'rs, <i>Minutes 1</i> (June 1, 2015), http://www.hendersoncountync.org/agendas/150601m.pdf (lawmaker-led prayer).
<i>Hertford</i>	Lawmaker	<i>E.g.</i> , Hertford Cnty. Bd. of Comm'rs, <i>Regular Meeting 1</i> (May 18, 2015), http://www.hertfordcountync.gov/county-departments/commissioners/minutes/2015/051815.pdf .

County Name	Who Offers Prayer	Source
<i>Hoke</i>	Lawmaker or Clergy	<i>E.g.</i> , Hoke Cnty. Bd. of Comm'rs, <i>Minutes</i> 3750 (June 1, 2015), http://nc-hokecounty.civicplus.com/AgendaCenter/ViewFile/Agenda/06012015-403 .
<i>Hyde</i>	Lawmaker	<i>E.g.</i> , Bd. of Cnty. Comm'rs Hyde Cnty., <i>Regular Meeting Minutes</i> 1 (June 1, 2015), http://www.hydecountync.gov/board_of_commissioners/docs/06_01_2015_Minutes.pdf .
<i>Iredell</i>	Lawmaker	<i>E.g.</i> , Iredell Cnty. Bd. of Comm'rs, <i>Regular Minutes</i> 5 (May 5, 2015), http://iredell.granicus.com/DocumentViewer.php?file=iredell_a682a113f4fbfb7bc42f325f15c64dba.pdf&view=1 .
<i>Jackson</i>	Lawmaker	<i>E.g.</i> , Jackson Cnty. Bd. of Comm'rs, <i>Minutes of a Regular Meeting</i> 1 (June 18, 2015), http://www.jacksonnc.org/commissioners-meeting-minutes.html .
<i>Johnston</i>	Lawmaker	<i>E.g.</i> , Johnston Cnty. Bd. of Comm'rs, <i>Meeting</i> 1 (June 1, 2015), http://www.johnstonnc.com/files/board/minutes/2015/June1_10am.pdf .
<i>Jones</i>	Lawmaker	<i>E.g.</i> , Jones Cnty. Bd. of Comm'rs, <i>Regular Meeting</i> 1 (Jan. 5, 2015), http://www.jonescountync.gov/vertical/sites/%7B9E2432B0-642B-4C2F-A31B-CDE7082E88E9%7D/uploads/Minutes_01-05-2015.pdf .
<i>Lee</i>	Lawmaker	<i>E.g.</i> , Lee Cnty. Bd. of Comm'rs, <i>Regular Meeting</i> 1 (June 1, 2015), http://leecountync.gov/LinkClick.aspx?fileticket=KZg9CM2bFzk%3d&tabid=85 .

County Name	Who Offers Prayer	Source
<i>Lenoir</i>	Lawmaker	<i>E.g.</i> , Lenoir Cnty. Bd. of Comm'rs, <i>Minutes</i> 1 (June 1, 2015), http://www.co.lenoir.nc.us/documents/06012015MeetingMinutes.pdf .
<i>Lincoln</i>	Lawmaker or Clergy	<i>E.g.</i> , Lincoln Cnty. Bd. of Comm'rs, <i>Minutes</i> 1 (May 4, 2015), http://www.lincolncounty.org/ArchiveCenter/ViewFile/Item/738 (clergy-led prayer); Lincoln Cnty. Bd. of Comm'rs, <i>Minutes</i> 1 (Apr. 20, 2015), http://www.lincolncounty.org/ArchiveCenter/ViewFile/Item/726 (lawmaker-led prayer).
<i>Martin</i>	Lawmaker	<i>E.g.</i> , Martin Cnty. Bd. of Comm'rs, <i>Minutes</i> 1 (June 17, 2015), http://www.martincountyncgov.com/_fileUploads/minutes/617201582702AM.pdf .
<i>McDowell</i>	Lawmaker	<i>E.g.</i> , Cnty. of McDowell Cnty. Bd. of Comm'rs, <i>Regular Session</i> 1 (May 11, 2015), http://www.mcdowellgov.com/vertical/sites/%7B2D9A4CFF-B077-4D35-8C47-FDF52593850E%7D/uploads/Minutes_-_May_11_2015_Regular_Meeting.pdf .
<i>Mecklenburg</i>	Lawmaker	Tim Funk & David Perlmutter, <i>Mecklenburg Commissioners Leake, Cotham Battle over Prayer</i> , Charlotte Observer (May 18, 2015), http://www.charlotteobserver.com/living/religion/article21332430.html .
<i>Mitchel</i>	Lawmaker	<i>E.g.</i> , Mitchell Cnty. Comm'rs, <i>Minutes, Regular Session</i> (Feb. 2, 2015), http://www.mitchellcounty.org/minutes/2015/02-02-15-Minutes.html .

County Name	Who Offers Prayer	Source
<i>Nash</i>	Lawmaker	<i>E.g.</i> , Nash Cnty. Bd. of Comm'rs, <i>Regular Meeting 1</i> (May 4, 2015), http://www.co.nash.nc.us/AgendaCenter/ViewFile/Minutes/05042015-138 .
<i>Northampton</i>	Lawmaker	<i>E.g.</i> , Northampton Cnty. Bd. of Comm'rs, <i>Regular Session 565</i> (June 15, 2015), http://www.northamptonnc.com/documents/boards/minutes/Minutes%20061515%20RM.pdf .
<i>Pamlico</i>	Lawmaker	<i>E.g.</i> , Pamlico Cnty. Bd. of Comm'rs, <i>Regular Session 1</i> (Apr. 6, 2015), http://www.pamlicocounty.org/SharedFiles/Download.aspx?pageid=72&mid=115&fileid=689 .
<i>Pasquotank</i>	Lawmaker	<i>E.g.</i> , Pasquotank Cnty. Bd. of Comm'rs, <i>Regular Session 1</i> (June 15, 2015), http://www.co.pasquotank.nc.us/departments/manager/minutes/2015/061515mins.pdf .
<i>Pender</i>	Lawmaker	<i>E.g.</i> , Pender Cnty. Bd. of Comm'rs, <i>Minutes 1</i> (June 8, 2015), http://www.pendercountync.gov/Government/AgendasMinutes/BoardofCommissioners/minutes/fy1415/150608.pdf .
<i>Perquimans</i>	Lawmaker	<i>E.g.</i> , Perquimans Cnty. Bd. of Comm'rs, <i>Regular Meeting 3021</i> (June 1, 2015), http://www.perquimanscountync.gov/board-of-commissioners.html .
<i>Pitt</i>	Lawmaker	<i>E.g.</i> , Pitt Cnty. Bd. of Comm'rs, <i>Minutes 2</i> (June 9, 2015), http://www.pittcountync.gov/bcc/agenda/attach/02_previousminutes.pdf

County Name	Who Offers Prayer	Source
<i>Polk</i>	Lawmaker or Clergy	<i>E.g.</i> , Polk Cnty. Bd. of Comm'rs, <i>Regular Meeting 1</i> (June 1, 2015), http://www.polknc.org/commissioners/b_o_c_meeting_minutes/index.php#revize_document_center_rz602 (lawmaker-led prayer); Polk Cnty. Bd. of Comm'rs, <i>Regular Meeting 1</i> (Feb. 2, 2015), http://www.polknc.org/commissioners/b_o_c_meeting_minutes/index.php#revize_document_center_rz602 (clergy-led prayer).
<i>Randolph</i>	Lawmaker	<i>E.g.</i> , Randolph Cnty. Bd. of Comm'rs, <i>Minutes 1</i> (June 1, 2015), http://www.co.randolph.nc.us/meetings_agendas/commissioners/default.htm .
<i>Scotland</i>	Lawmaker	<i>E.g.</i> , Scotland Cnty. Bd. of Comm'rs, <i>Regular Meeting 1</i> (June 1, 2015), http://www.scotlandcounty.org/Data/Sites/1/media/minutes/rm6-1-2015.pdf .
<i>Stanly</i>	Lawmaker	<i>E.g.</i> , Stanly Cnty. Bd. of Comm'rs, <i>Regular Meeting Minutes 1</i> (May 18, 2015), http://www.stanlycountync.gov/wp-content/uploads/2012/10/05182015m.pdf .
<i>Stokes</i>	Lawmaker	<i>E.g.</i> , Stokes Cnty. Bd. of Comm'rs, <i>Minutes 1</i> (June 8, 2015), http://www.co.stokes.nc.us/bocc/minutes/2015/m060815.pdf .
<i>Surry</i>	Lawmaker	<i>E.g.</i> , Surry Cnty. Bd. of Comm'rs, <i>Minutes 11154</i> (June 1, 2015), http://www.co.surry.nc.us/document_center/Minutes/June_1__2015.pdf .

County Name	Who Offers Prayer	Source
<i>Union</i>	Lawmaker or Clergy	<i>E.g.</i> , Union Cnty. Bd. of Comm'rs, <i>Regular Meeting Minutes</i> (Apr. 6, 2015), http://www.co.union.nc.us:8080/sirepub/mtgviewer.aspx?meetid=281&doctype=MINUTES .
<i>Wake</i>	Lawmaker	Wake Cnty. Bd. of Comm'rs, <i>Meeting Procedures</i> (Aug. 7, 2013), http://www.wakegov.com/commissioners/Pages/meetingprocedures.aspx .
<i>Washington</i>	Lawmaker	<i>E.g.</i> , Washington Cnty. Bd. of Comm'rs, <i>Minutes 1</i> (Mar. 2, 2015), http://www.washconc.org/PDFs/Minutes/2015/3-2-15%20meeting%20minutes.pdf .
<i>Watauga</i>	Lawmaker	<i>E.g.</i> Watauga Cnty. Bd. of Comm'rs, <i>Minutes</i> (June 2, 2015), http://www.wataugacounty.org/main/App_Pages/Dept/BOC/viewminutes.aspx?ID=522 .
<i>Wayne</i>	Lawmaker or Clergy	<i>E.g.</i> , Wayne Cnty. Bd. of Comm'rs, <i>Minutes 1</i> (May 28, 2015), http://www.waynegov.com/cms/lib05/NC07000827/Centricity/Domain/145/May%2028%202015.pdf .
<i>Wilkes</i>	Lawmaker	<i>E.g.</i> , Wilkes Cnty. Bd. of Comm'rs, <i>Minutes 2</i> (June 23, 2015), http://wilkescounty.net/wp-content/uploads/2015/07/6-23-2015.pdf .
<i>Wilson</i>	Lawmaker	<i>E.g.</i> , Wilson Cnty. Bd. of Comm'rs, <i>Minutes 1</i> (Feb. 2, 2015), http://wilsoncountync.iqm2.com/Citizens/FileOpen.aspx?Type=15&ID=1006&Inline=True .
<i>Yadkin</i>	Lawmaker	<i>E.g.</i> , Yadkin Cnty. Bd. of Comm'rs, <i>Regular Session Minutes 1</i> (June 15, 2015), http://www.yadkincountync.gov/ArchiveCenter/ViewFile/Item/1495 .

County Name	Who Offers Prayer	Source
<i>Yancey</i>	Lawmaker	<i>E.g., Yancey Cnty. Bd. of Cnty. Comm'rs, Minutes of the 11 May 2015 Regular Meeting 1,</i> http://www.yanceycountync.gov/index.php/county-commissioners/board-minutes .

Table 5. Lawmaker-Led Prayer Practices in the Ten Most Populous North Carolina Cities

City Name	Who Offers Prayer	Source
<i>Charlotte</i>	Lawmaker	<i>E.g., Charlotte City Council, 2d Monday – City Council – Business, CharlotteNC.gov (June 2, 2015), http://charlottenc.granicus.com/MediaPlayer.php?view_id=2&clip_id=2699.</i>
<i>Raleigh</i>	Lawmaker or Clergy	<i>E.g., City Council of the City of Raleigh, Council Minutes 1 (June 2, 2015), https://www.raleighnc.gov/government/content/BoardsCommissions/Articles/CityCouncil.html (lawmaker-led prayer); City Council of the City of Raleigh, Council Minutes 1 (May 19, 2015), https://www.raleighnc.gov/government/content/BoardsCommissions/Articles/CityCouncil.html (clergy-led prayer).</i>
<i>Wilmington</i>	Lawmaker or Clergy	<i>E.g., Wilmington City Council, Regular City Council Meeting Minutes 1 (Feb. 3, 2015), http://www.wilmingtonnc.gov/city_manager/gtv8/meeting_video_audio_archive/city_council_archive (employee-led prayer); Wilmington City Council, Regular City Council Meeting Minutes 1 (Feb. 17, 2015), http://www.wilmingtonnc.gov/city_manager/gtv8/meeting_video_audio_archive/city_council_archive (clergy-led prayer).</i>

Table 6. Lawmaker-Led Prayer Practices in South Carolina Counties

County Name	Who Offers Prayer	Source
<i>Abbeville</i>	Lawmaker	<i>E.g., Abbeville Cnty. Council, Regular Meeting Minutes 1</i> (Mar. 16, 2015), http://www.abbevillecountysc.com/_fileuploads/Minutes/332_Workshop%203-16-15.pdf .
<i>Aiken</i>	Lawmaker	Rob Novit, Amy Banton, & Maayan Schecter, <i>Where Is Public Prayer Allowed?</i> , <i>Aiken Standard</i> (Oct. 29, 2013), http://www.aikenstandard.com/article/20131029/AIK0101/131029448 .
<i>Anderson</i>	Lawmaker	<i>E.g., WAIM.TV, ACC Regular Meeting – June 2, 2015 – Pt1</i> , YouTube (June 28, 2015), https://www.youtube.com/watch?v=7luX8bxYRik .
<i>Bamberg</i>	Lawmaker or Clergy	<i>E.g., Bamberg Cnty. Council, Minutes 1</i> (Oct. 6, 2014), http://www.bambergcountysc.gov/images/scripts/minutes2014/oct/minutes-10-06-2014.pdf ; <i>Bamberg Cnty. Council, Minutes1</i> (Feb. 2, 2015), http://www.bambergcountysc.gov/images/scripts/minutes2015/feb/minutes-02-02-2015.pdf .
<i>Beaufort</i>	Lawmaker	<i>E.g., Cnty. Council of Beaufort Cnty., Agenda 1</i> (June 8, 2015), http://www.bcgov.net/departments/Administrative/beaufort-county-council/council-meetings/agendas/2015/060815.pdf .
<i>Berkeley</i>	Lawmaker	<i>E.g., Berkeley Cnty. Council, Regular Monthly Meeting 1</i> (June 25, 2001), http://berkeleycountysc.iqm2.com/Citizens/FileOpen.aspx?Type=12&ID=1638&Inline=True .

County Name	Who Offers Prayer	Source
<i>Calhoun</i>	Lawmaker	<i>E.g., Calhoun Cnty. Council, Minutes of Meeting 1 (July 25, 2015), http://www.calhouncounty.sc.gov/officials/Documents/July%2025%20Minutes.pdf.</i>
<i>Chesterfield</i>	Lawmaker	<i>E.g., Chesterfield Cnty. Council, Regular Meeting 1 (June 3, 2015), http://www.chesterfieldcountysc.com/_fileUploads/agendasAndActions/111409AMMinutes632015.pdf.</i>
<i>Clarendon</i>	Lawmaker	<i>E.g., Clarendon Cnty. Council, Regular Council Meeting 1 (May 11, 2015), http://www.clarendoncountygov.org/attachments/article/91/May%2011,%202015.pdf.</i>
<i>Colleton</i>	Lawmaker	<i>E.g., Colleton Cnty. Council, Regular Meeting Minutes 1 (May 5, 2015), http://www.colletoncounty.org/Data/Sites/1/media/council/may-5,-2015-rm.pdf.</i>
<i>Darlington</i>	Lawmaker	<i>E.g., Darlington Cnty. Council, Public Hearing & Regular Meeting 3 (June 1, 2015), http://www.darcosc.com/document_center/Council/June_1__2015__minutes.pdf.</i>
<i>Dillon</i>	Lawmaker	<i>E.g., Dillon Cnty. Council, Regular Meeting 1 (May 27, 2015), http://dilloncounty.sc.gov/Documents/Council%20Council%20Minutes/2014_2015%20minutes/MI05.27.15.pdf.</i>
<i>Dorchester</i>	Lawmaker	<i>E.g., Dorchester Cnty. Council, Minutes 1 (June 15, 2015), http://www.dorchestercounty.net/Modules/ShowDocument.aspx?documentid=9721.</i>

County Name	Who Offers Prayer	Source
<i>Edgefield</i>	Lawmaker or Clergy	<i>E.g.</i> , Edgefield Cnty. Council, <i>Minutes</i> 1 (June 2, 2015), http:// www.edgefieldcounty.sc.gov/Documents/06-02-15%20cc%20mins.pdf (lawmaker-led prayer); Edgefield Cnty. Council, <i>Minutes</i> 1 (Jan. 6, 2015), http://www.edgefieldcounty.sc.gov/Documents/01-06-15%20mins.pdf (clergy-led prayer).
<i>Fairfield</i>	Lawmaker	<i>E.g.</i> , Fairfield Cnty. Council, <i>Minutes</i> 95 (June 8, 2015), http://www.fairfieldsc.com/secondary.aspx?pageID=109 .
<i>Florence</i>	Lawmaker	<i>E.g.</i> , Florence Cnty. Council, <i>Minutes</i> 1 (Jan. 3, 2008), http://files.florenceco.org.s3.amazonaws.com/public/CountyCouncil/Minutes/2008/01032008minutes.pdf .
<i>Georgetown</i>	Lawmaker	<i>E.g.</i> , Georgetown Cnty. Council, <i>Meeting Minutes</i> 1 (May 27, 2014), http://docs.georgetowncountysc.org/cache/00003/304/052714%20MINUTES.pdf .
<i>Greenville</i>	Lawmaker	<i>E.g.</i> , Greenville Cnty. Council, <i>Regular Council Meeting</i> 1 (June 2, 2015), https://www.greenvillecounty.org/apps/DirectoryListings/CountyCouncilAgendas/ .
<i>Greenwood</i>	Lawmaker	<i>E.g.</i> , Greenwood Cnty. Council, <i>Minutes</i> 1 (June 2, 2015), http://www.greenwoodsc.gov/countywebsite/Modules/ShowDocument.aspx?documentid=4449 .
<i>Hampton</i>	Lawmaker	<i>E.g.</i> Hampton Cnty. Council, <i>Agenda</i> 1 (June 15, 2015), http://www.hamptoncountysc.org/archive.aspx .

County Name	Who Offers Prayer	Source
<i>Horry</i>	Lawmaker	<i>E.g., Horry Cnty. Council, Minutes 1 (Jan. 27, 2004),</i> http://www.horrycounty.org/Portals/0/Docs/council/archives/min04-0127.pdf .
<i>Jasper</i>	Lawmaker	<i>E.g., Jasper Cnty. Council, Minutes 2 (Mar. 16, 2015),</i> http://www.jaspercountysc.org/_fileUploads/Actions/3-16-2015_COUNCILMEETING.pdf .
<i>Kershaw</i>	Lawmaker	<i>E.g., Kershaw Cnty. Council, Minutes 1 (June 9, 2015),</i> http://www.kershaw.sc.gov/index.aspx?recordid=2640&page=242 .
<i>Lancaster</i>	Lawmaker	<i>E.g., Lancaster Cnty. Council, Regular Meeting Agenda 1 (July 13, 2015),</i> http://www.mylancastersc.org/vertical/sites/%7BA02FC01E-6C41-44F4-BE02-9B73FC0206C5%7D/uploads/7-13-15_agenda-07072015151933.pdf .
<i>Laurens</i>	Lawmaker	<i>E.g., Laurens Cnty. Council, Minutes 1 (May 12, 2015),</i> http://www.laurenscountysc.org/_fileUploads/minutes/512201513711PM.pdf .
<i>Lee</i>	Lawmaker	<i>E.g., Lee Cnty. Council, Minutes (May 12, 2015),</i> http://www.leecountysc.org/category/minutes/ .
<i>Lexington</i>	Lawmaker	<i>E.g., Lexington Cnty. Council, Minutes 71 (Apr. 28, 2015),</i> http://lexingtoncountysc.iqm2.com/Citizens/FileOpen.aspx?Type=15&ID=1252&Inline=True .
<i>Marion</i>	Lawmaker	<i>E.g., Marion Cnty. Council, Minutes 1 (Jul. 24, 2014),</i> http://www.marionsc.org/_fileUploads/minutes/7242014122342PM.pdf .

County Name	Who Offers Prayer	Source
<i>Marlboro</i>	Lawmaker	<i>E.g., Marlboro Cnty. Council, Minutes 1 (May 4, 2015),</i> http://www.marlborrowcounty.sc.gov/council/agendas/Documents/May%204,%202015%20Minutes.pdf .
<i>McCormick</i>	Lawmaker	<i>E.g., McCormick Cnty. Council, Meeting Minutes 1 (May 19, 2015),</i> http://www.mccormickcountysc.org/mccormick_county_agenda.php .
<i>Newberry</i>	Lawmaker or Employee	<i>E.g., Newberry Cnty. Council, Minutes 1 (June 17, 2015),</i> http://www.newberrycounty.net/home/showdocument?id=1712 .
<i>Pickens</i>	Lawmaker	<i>E.g., Pickens Cnty. Council, Minutes 1 (May 4, 2015),</i> http://www.co.pickens.sc.us/_fileUploads/minutes/542015111953AM.pdf .
<i>Richland</i>	Lawmaker	<i>E.g., Richland Cnty. Council, Regular Session Minutes 1 (June 2, 2015),</i> http://www.richlandonline.com/Portals/0/Departments/CountyCouncil/Minutes/Reg.06.02.15.pdf .
<i>Sumter</i>	Lawmaker or Clergy	<i>E.g., Sumter Cnty. Council, Regular Meeting Agenda (Apr. 28, 2015),</i> http://sumtercosc.suiteonemedia.com/web/Player.aspx?id=447&key=-1&mod=-1&mk=-1&nov=0 .
<i>Union</i>	Lawmaker	<i>E.g., Union Cnty. Council, Regular Monthly Meeting 1 (Dec. 9, 2014),</i> http://www.countyofunion.org/site/cpage.asp?cpage_id=180008527&sec_id=180003405 .
<i>York</i>	Lawmaker	<i>E.g., YCGOV, York County Council Meeting 6 15 2015, YouTube (June 18, 2015),</i> https://www.youtube.com/watch?v=EDz8QioSvhU .

Table 7. Lawmaker-Led Prayer Practices in the Ten Most Populous South Carolina Cities

City Name	Who Offers Prayer	Source
<i>Charleston</i>	Lawmaker	<i>E.g., City Council of Charleston, Regular Meeting 1 (May 26, 2015), http://www.charleston-sc.gov/AgendaCenter/ViewFile/Minutes/05262015-1410.</i>
<i>Greenville</i>	Lawmaker	<i>E.g., Greenville City Council, Minutes 1 (June 22, 2015), http://www.greenvillesc.gov/AgendaCenter/ViewFile/Minutes/06222015-282.</i>
<i>Summerville</i>	Lawmaker	<i>E.g., Summerville Town Council, Council Meeting Minutes 1 (June 10, 2015), http://www.summervillesc.gov/vertical/sites/%7BAAEC23E2-99CA-4103-85AD-32CB4206F79B%7D/uploads/June_2015.pdf.</i>
<i>Sumter</i>	Lawmaker	<i>E.g., Sumter City Council, Regular Meeting (June 16, 2015), https://www.voterheads.com/organizations/58/public_agendas/16291.</i>

Table 8. Lawmaker-Led Prayer Practices in Virginia Counties

County Name	Who Offers Prayer	Source
<i>Accomack</i>	Lawmaker or Clergy	<i>E.g., Accomack Cnty. Bd. of Sup'rs, Regular Monthly Meeting 1</i> (Apr. 15, 2015), http://www.co.accomack.va.us/home/showdocument?id=2929 (prayer led by clergy); <i>Accomack Cnty. Bd. of Sup'rs, Regular Monthly Meeting 1</i> (Feb. 18, 2015), http://www.co.accomack.va.us/home/showdocument?id=2793 (lawmaker-led prayer).
<i>Alleghany</i>	Lawmaker	<i>E.g., Alleghany Cnty. Bd. of Sup'rs, Minutes 1</i> (Apr. 7, 2015), available at http://www.co.alleghany.va.us/board_of_supervisors/Minutes.htm .
<i>Amelia</i>	Lawmaker	<i>E.g., Amelia Cnty. Bd. of Sup'rs, Regular Meeting 1</i> (May 20, 2015), http://ameliacova.com/Minutes_for_5_20_2015.pdf .
<i>Amherst</i>	Lawmaker	<i>E.g., Amherst Cnty. Bd. of Sup'rs, Minutes – Book 34 1146</i> (May 19, 2015), http://www.countyofamherst.com/egov/documents/1435075823_42596.pdf .
<i>Appomattox</i>	Lawmaker	<i>E.g., Appomattox Cnty. Bd. of Sup'rs, Regular Meeting Minutes</i> (Mar. 2, 2015), http://appomattoxcountyva.iqm2.com/Citizens/FileView.aspx?Type=12&ID=1321 .
<i>Augusta</i>	Lawmaker	<i>E.g., Augusta Cnty. Bd. of Sup'rs, Regular Meeting Minutes 1</i> (Jan. 4, 2006), http://www.co.augusta.va.us/ftp/minutes/1-4min.06.pdf .

County Name	Who Offers Prayer	Source
<i>Bath</i>	Lawmaker	<i>E.g., Bath Cnty. Bd. of Sup'rs, Regular Meeting Minutes 1</i> (May 12, 2015), http://www.bathcountyva.org/assets/May_2015_BOS.pdf .
<i>Bland</i>	Lawmaker	<i>E.g., Bland Cnty. Bd. of Sup'rs, Regular Meeting 1</i> (Apr. 28, 2015), http://www.blandcountyva.gov/uploads/docs/Regular%20meeting04-28-2015.pdf .
<i>Brunswick</i>	Lawmaker	<i>E.g., Brunswick Cnty. Bd. of Comm'rs, Agenda</i> (July 6, 2015), http://brunswick.novusagenda.com/agendapublic/MeetingView.aspx?MeetingID=150&MinutesMeetingID=404&doctype=Agenda .
<i>Buckingham</i>	Lawmaker	<i>E.g., Buckingham Cnty. Bd. of Sup'rs, Monthly Meeting Minutes 1</i> (Jan. 12, 2015), http://www.buckinghamcountyva.org/Board%20Minutes/2015/January%202012,%202015.pdf .
<i>Campbell</i>	Lawmaker	<i>E.g., Campbell Cnty. Bd. of Sup'rs, Meeting Minutes 1</i> (Jan. 6, 2015), http://www.co.campbell.va.us/bos/Documents/board_minutes/2015/01%2006%202015.pdf .
<i>Carroll</i>	Lawmaker	<i>E.g., Carroll Cnty. Bd. of Sup'rs, Minutes 2</i> (June 8, 2015), http://carrollcountyva.org/docs/bdpkt/2015/July/02_BOSMinutes_June_8_2015.pdf .
<i>Charlotte</i>	Lawmaker	<i>E.g., Charlotte Cnty. Bd. of Sup'rs, Minutes 1</i> (May 12, 2015), http://www.charlotteva.com/pdfs/minutes/2015_05min.pdf .

County Name	Who Offers Prayer	Source
<i>Chesterfield</i>	Lawmaker	Chesterfield Cnty. Bd. of Sup'rs, <i>Invocation Policy</i> (Jan. 1, 2015), http://chesterfieldva.granicus.com/MetaViewer.php?view_id=6&clip_id=1068&meta_id=109239 .
<i>Fauquier</i>	Lawmaker	<i>E.g.</i> , Fauquier Cnty. Bd. of Sup'rs, <i>Minutes</i> (Feb. 12, 2015), http://agenda.fauquiercounty.gov/MeetingView.aspx?MeetingID=111&MinutesMeetingID=198&doctype=Minutes .
<i>Floyd</i>	Lawmaker	<i>E.g.</i> , Floyd Cnty. Bd. of Sup'rs, <i>Regular Meeting 1</i> (May 26, 2015), http://www.floydcova.org/wp-content/uploads/2015/06/may-26-2015-minutes.pdf .
<i>Franklin</i>	Lawmaker	<i>E.g.</i> , Franklin Cnty. Bd. of Sup'rs, <i>Meeting Minutes 1</i> (Jan. 5, 2015), http://www.franklincountyva.gov/images/bos/bos-minutes-2015/bos-minutes-010515.pdf .
<i>Frederick</i>	Lawmaker	<i>E.g.</i> , Frederick Cnty., <i>Bd. of Sup'rs – June 10, 2015</i> , YouTube (June 11, 2015), https://www.youtube.com/watch?list=SPkth-ViEO0IyPGXgWCUARayu2CuHh6Xu5&v=6Quc0o_pmCM .
<i>Gloucester</i>	Lawmaker	<i>E.g.</i> , Gloucester Cnty. Bd. of Sup'rs, <i>Meeting Minutes 1</i> (Apr. 21, 2015), http://gloucester.granicus.com/DocumentViewer.php?file=gloucester_233fa94c-02a8-4147-be02-d5cb36c61908.pdf .
<i>Greensville</i>	Lawmaker	<i>E.g.</i> , Greensville Cnty. Bd. of Sup'rs, <i>Minutes 1</i> (June 15, 2015), http://www.greensvillecountyva.gov/index.php/public-information/agendas-minutes/board-of-supervisors .

County Name	Who Offers Prayer	Source
<i>Halifax</i>	Lawmaker	<i>E.g., Halifax Cnty. Bd. of Comm'rs, Regular Meeting 166</i> (Feb. 2, 2015), http://weblink.mccinnovations.com/WebLink/6/doc/134908/Page1.aspx .
<i>Hanover</i>	Lawmaker	<i>E.g., Hanover Cnty. Bd. of Sup'rs, Draft Summary Minutes 1</i> (June 10, 2015), http://hanovercounty.gov/BCC/Board_of_Supervisors/Minutes/06_10_15_Minutes_draft.pdf .
<i>Henry</i>	Lawmaker	<i>E.g., Henry Cnty. Bd. of Sup'rs, Minutes 1</i> (Mar. 24, 2015), http://www.henrycountyva.gov/content/uploads/2015bos/03242015minutes.pdf .
<i>Isle of Wight</i>	Lawmaker	<i>E.g., Isle of Wright Cnty. Bd. of Sup'rs, Agenda 1</i> (July 16, 2015), http://www.co.isle-of-wight.va.us/board-of-supervisors/download/full_agenda_2015/agenda07162015.pdf .
<i>King and Queen</i>	Lawmaker	<i>E.g., King & Queen Cnty. Bd. of Sup'rs, Minutes of the Meeting 1</i> (May 11, 2015), http://www.kingandqueenco.net/html/Govt/boarddocs/Minutes/2015/Bd_Min_5_11_15.pdf .
<i>Louisa</i>	Lawmaker	<i>E.g., Louisa Cnty. Bd. of Sup'rs, Minutes 1</i> (June 15, 2015), http://louisacountyva.iqm2.com/Citizens/FileOpen.aspx?Type=12&ID=1168&Inline=True .
<i>Lunenburg</i>	Lawmaker	<i>E.g., Lunenburg Cnty. Bd. of Sup'rs, Minutes of May 14, 2015 Meeting 1</i> , http://www.lunenburgva.net/wp-content/uploads/2012/04/5-14-15-minutes.pdf .

County Name	Who Offers Prayer	Source
<i>New Kent</i>	Lawmaker	<i>E.g.</i> , New Kent Cnty. Bd. of Sup'rs, <i>Regular Meeting Minutes 1</i> (June 8, 2015), http://va-newkentcounty.civicplus.com/ArchiveCenter/ViewFile/Item/3333 .
<i>Northumberland</i>	Lawmaker or Clergy	<i>E.g.</i> , Northumberland Cnty. Bd. of Sup'rs, <i>Minutes 1</i> (May 14, 2015), http://www.co.northumberland.va.us/NH-top-level/Test%20Webpage/NC_Webpage/NC_Public_Hearings/BOS/2015/Minutes%20May%2014,%202015%20Meeting.pdf (lawmaker-led prayer); Northumberland Cnty. Bd. of Sup'rs, <i>Minutes 1</i> (Feb. 12, 2015), http://www.co.northumberland.va.us/NH-top-level/Test%20Webpage/NC_Webpage/NC_Public_Hearings/BOS/2015/Minutes%20Feb%2012,%202015%20(2).pdf (clergy-led prayer).
<i>Nottoway</i>	Lawmaker	<i>E.g.</i> , Nottoway Cnty. Bd. of Sup'rs, <i>Minutes 1</i> (Apr. 16, 2015), available at http://www.nottoway.org/supervisors.shtml
<i>Page</i>	Lawmaker or Clergy	<i>E.g.</i> , Page Cnty. Bd. of Sup'rs, <i>Minutes 1</i> (Feb. 26, 2015), http://pagecounty.virginia.gov/files/Minutes%20-%20February%2026,%202015.pdf (lawmaker-led prayer); Page Cnty. Bd. of Sup'rs, <i>Minutes 1</i> (May 19, 2015), http://pagecounty.virginia.gov/files/Minutes%20-%20May%2019,%202015 . Pdf.(clergy-led prayer);

County Name	Who Offers Prayer	Source
<i>Patrick</i>	Lawmaker or Clergy	<i>E.g.</i> , Patrick Cnty. Bd. of Sup'rs, <i>Minutes 1</i> (Mar. 23, 2015), http://www.co.patrick.va.us/content/File/March%2023%202015.pdf (lawmaker-led prayer); Patrick Cnty. Bd. of Sup'rs, <i>Minutes 1</i> (Apr. 27, 2015), http://www.co.patrick.va.us/content/File/April%2027%202015.pdf (clergy-led prayer).
<i>Powhatan</i>	Lawmaker	<i>E.g.</i> , Powhatan Cnty. Bd. of Sup'rs, <i>Minutes 1</i> (May 4, 2015), http://powhatan.siretechnologies.com/sirepub/cache/2/4wgap03zlyt5gdhw3m5tn1yu/2300407302015111006229.PDF .
<i>Prince George</i>	Lawmaker	<i>E.g.</i> , Prince George Cnty. Bd. of Sup'rs, <i>Minutes 4</i> (Mar. 10, 2015), http://www.princegeorgeva.org/index.aspx?recordid=6194&page=386 .
<i>Prince William</i>	Lawmaker or Clergy	Prince William Cnty. Bd. of Supervisors, <i>BOCS Rules of Procedure Section F: Order of Business</i> (Jan. 14, 2014), http://www.pwcgov.org/government/bocs/Pages/BOCS-Rules-of-Procedure.aspx .
<i>Richmond</i>	Lawmaker	<i>E.g.</i> , Richmond Cnty. Bd. of Sup'rs, <i>Minutes 1</i> (Mar. 14, 2015), http://www.co.richmond.va.us/files/Minutes0515.pdf .
<i>Rockbridge</i>	Lawmaker	<i>E.g.</i> , Rockbridge Cnty. Bd. of Sup'rs, <i>Minutes 1</i> (May 11, 2015), http://www.co.rockbridge.va.us/ArchiveCenter/ViewFile/Item/549 .

County Name	Who Offers Prayer	Source
<i>Rockingham</i>	Lawmaker or Employee	<i>E.g.</i> , Rockingham Cnty. Bd. of Comm'rs, <i>Regular Meeting 1</i> (Jan. 5, 2015), http://www.co.rockingham.nc.us/docview.aspx?doctype=minute&docid=15734 .
<i>Shenandoah</i>	Lawmaker	<i>E.g.</i> , Shenandoah Cnty. Bd. of Sup'rs, <i>Minutes</i> (May 26, 2015), http://shenandoahcountyva.us/bos/events/board-night-meeting-2-2015-05-26/ .
<i>Smyth</i>	Lawmaker or Employee	<i>E.g.</i> , Smyth Cnty. Bd. of Sup'rs, <i>Minutes 2</i> (Aug. 12, 2014), http://www.smythcounty.org/board_of_supervisors/minutes/2014_minutes/min_bos_aug_2014.pdf (employee-led prayer); Smyth Cnty. Bd. of Sup'rs, <i>Minutes 2</i> (February 11, 2014), http://www.smythcounty.org/board_of_supervisors/minutes/2014_minutes/min_bos_feb_2014.pdf (lawmaker-led invocation).
<i>Southampton</i>	Lawmaker	<i>E.g.</i> , Southampton Cnty. Bd. of Sup'rs, <i>Minutes 1</i> (Mar. 23, 2015), http://www.southamptoncounty.org/MediaArchive/PDF/BOS%20AGENDA%20-%20APRIL%202015/BOS%20Minutes_3-23-15.pdf .
<i>Spotsylvania</i>	Lawmaker	<i>E.g.</i> , Advanced Media Solutions of Va., LLC., <i>Spotsylvania County 6/23/2015</i> , YouTube (June 25, 2015), https://www.youtube.com/watch?v=0JZa6MA_H_I .

County Name	Who Offers Prayer	Source
<i>Stafford</i>	Lawmaker	<i>E.g.</i> , Stafford Cnty. Bd. of Sup'rs, <i>Minutes 27</i> (June 16, 2015), staffordcountyva.gov/ArchiveCenter/ViewFile/Item/2370 .
<i>Sussex</i>	Lawmaker	<i>E.g.</i> , Sussex Cnty. Bd. of Sup'rs, <i>Minutes 1</i> (Apr. 9, 2015), http://www.sussexcountyva.gov/uploads/docs/April%209%202015%20minutes.pdf .
<i>Tazewell</i>	Lawmaker	<i>E.g.</i> , Tazewell Cnty. Bd. of Sup'rs, <i>Minutes 1</i> (Apr. 7, 2015), http://www.tazewellcounty.org/bos/minutes/june2010%20and%20up/April%207%202015%20TCBOS%20Minutes.pdf .
<i>Washington</i>	Lawmaker	<i>E.g.</i> , Washington Cnty. Bd. of Comm'rs, <i>Minutes 1</i> (Mar. 2, 2015), http://www.washconc.org/PDFs/Minutes/2015/3-2-15%20meeting%20minutes.pdf .
<i>Wise</i>	Lawmaker	<i>E.g.</i> , Wise Cnty. Bd. of Sup'rs, <i>Minutes</i> (Jan. 9, 2014), http://www.wisecounty.org/BOS/minutes/2014/20140109_org.html .
<i>York</i>	Lawmaker or Employee	<i>E.g.</i> , York Cnty. Bd. of Sup'rs, <i>Minutes 1</i> (Mar. 17, 2015), http://www.yorkcounty.gov/Portals/0/bos/Minutes%202015/March%2017,%202015.pdf (employee-led prayer); York Cnty. Bd. of Sup'rs, <i>Regular Meeting Minutes 1</i> (Sept. 16, 2014), http://www.yorkcounty.gov/Portals/0/bos/Minutes%202014/September%2016,%202014.pdf (lawmaker-led prayer).

Table 9. Lawmaker-Led Prayer Practices in the Twelve Most Populous Virginia Cities

City Name	Who Offers Prayer	Source
<i>Norfolk</i>	Lawmaker	<i>E.g., Norfolk City Council, Action of the Council 1 (June 9, 2015), http://www.norfolk.gov/AgendaCenter/ViewFile/Mi nutes/06092015-536.</i>
<i>Chesapeake</i>	Lawmaker	<i>E.g., Chesapeake City Council, Marked Agenda 2 (June 16, 2015), http://chesapeake.granicus.com/DocumentViewer.ph p?file=chesapeake_2a7a2eaf7bc271f04d6bdf87a507 445d.pdf&view=1.</i>
<i>Hampton</i>	Lawmaker	<i>E.g., Hampton City Council, Council Agenda 3 (July 8, 2015), http://www.hampton.gov/AgendaCenter/ViewFile/A genda/07082015-686.</i>
<i>Roanoke</i>	Lawmaker	<i>E.g., Roanoke City Council, Regular Session 1 (July 6, 2015), http://www.roanokeva.gov/DeptApps/CCAgendas.nsf/3cac7f13c72b8ab385256b1b004ec9af/cb39066004 63f6ff85257e76005a168f/\$FILE/ag%2007-06- 15.pdf.</i>
<i>Suffolk</i>	Lawmaker	<i>E.g., Suffolk City Council, Regular Meeting 1 (June 17, 2015), http://suffolkva.granicus.com/DocumentViewer.php? file=suffolkva_71766cd88e7df3036e754154c31867f d.pdf&view=1.</i>
<i>Lynchburg</i>	Lawmaker	<i>E.g., Lynchburg City Council, Meeting 183 (June 23, 2015), http://www.lyncburgva.gov/city-council-meetings.</i>

City Name	Who Offers Prayer	Source
<i>Harrisonburg</i>	Lawmaker	<i>E.g., Harrisonburg City Council, Minutes 1 (July 14, 2015),</i> https://harrisonburg-va.legistar.com/Calendar.aspx .

Table 10. Lawmaker-Led Prayer Practices in West Virginia Counties

County Name	Who Offers Prayer	Source
<i>Berkeley</i>	Lawmaker or Clergy	Berkeley Cnty. Council, <i>Minutes</i> 1 (Apr. 13, 2000), http://www.berkeleycountycomm.org/sharedimg/pdf/minutes/917.pdf (lawmaker-led prayer); Berkeley Cnty. Council, <i>Minutes</i> 1 (June 4, 2015), http://www.berkeleycountycomm.org/sharedimg/pdf/minutes/1820.pdf (clergy-led prayer).
<i>Jackson</i>	Lawmaker	Informal survey by the West Virginia Attorney General's Office field representatives.
<i>Mineral</i>	Lawmaker	Informal survey by the West Virginia Attorney General's Office field representatives.
<i>Pleasants</i>	Lawmaker	Informal survey by the West Virginia Attorney General's Office field representatives.
<i>Ritchie</i>	Lawmaker	Informal survey by the West Virginia Attorney General's Office field representatives.
<i>Tyler</i>	Lawmaker	Informal survey by the West Virginia Attorney General's Office field representatives.

Table 11. Lawmaker-Led Prayer Practices in the Ten Most Populous West Virginia Cities

City Name	Who Offers Prayer	Source
<i>Charleston</i>	Lawmaker	<i>E.g., Charleston City Council, Journal of the Proceedings of the City Council 2 (June 15, 2015), http://www.cityofcharleston.org/sites/default/files/journals/council_journal_6-15-15.pdf.</i>
<i>Parkersburg</i>	Lawmaker	<i>Ariel Rothfield, Parkersburg City Council Asked to Drop Prayer Before Public Meetings, 13News (July 8, 2015), http://www.wowktv.com/story/29505688/parkersburg-city-council-asked-to-drop-prayer-before-public-meetings.</i>
<i>Wheeling</i>	Lawmaker	<i>E.g., Wheeling City Council, Minutes 1 (June 2, 2015), http://www.wheelingwv.gov/citygovernment.php?id=70.</i>
<i>Clarksburg</i>	Lawmaker	<i>E.g., Clarksburg City Council, Regular Session 1 (June 4, 2015), http://www.cityofclarksburgwv.com/a-public-invitation#.</i>

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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COUNSEL FOR: State of West Virginia

(party name) as the

appellant(s) appellee(s) petitioner(s) respondent(s) amicus curiae intervenor(s)

/s/ Elbert Lin (signature)

Elbert Lin Name (printed or typed)

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CERTIFICATE OF SERVICE

I certify that on 08/03/2014 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

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