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### July 30, 2009: Jesus is Back in the Legislature, Thank God

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Title: Jesus is Back in the Legislature, Thank God

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7/30/2009—Tom Barnes reports today in the Pittsburgh Post-Gazette that Rev. Gerry Stolzfoos on Wednesday finally got to say a prayer opening a legislative session that ended with a reference to Jesus. As readers of this blog are aware, Rev. Stolzfoos chose not to give such a prayer last month when he was informed by the leadership of the State House of Representatives (Democrats wouldn't you know) that there was a policy against naming any specific religious figure in an opening prayer. Yesterday, Rev. Stolzfoos got another chance, this time in the State Senate chamber, which does not have any such policy. There are two issues here. First is the State House policy censorship in violation of either free speech or free exercise of religion? The answer is simply no. Legislative prayers are not private speech. They are government sponsored speech. That is why neither you nor I may give one uninvited by the legislature. Government is free therefore to set its terms (unless the policy violates a limit on government speech, such as the Establishment Clause). Second, does either the House or the Senate policy violate the Establishment Clause? The answer is probably neither violates the Constitution as currently interpreted. Legislative prayer was upheld against Establishment Clause challenge in *Marsh v. Chambers* (1983). Nonsectarian prayer of the House variety is almost certainly constitutional and even Christian prayer is constitutional if it is balanced with non-Christian prayer. The higher law tradition I will be introducing at the NN Convention in two weeks would also allow religious prayers to open legislative sessions but only if balanced not only among religious traditions but nonreligious traditions. The point of any legislative prayer or meditation is to remind ourselves that law is supposed to support truth and not just self-interest. That is a good reminder no matter what tradition it comes out of.