

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA
At Charleston**

JEFFERSON COUNTY COMMISSION, et. al.
Plaintiffs,

and

THORNTON COOPER,
Intervening Plaintiff,

v.

**Civil Action No. 2:11-CV-00989
(Honorable King, Bailey, Berger)**

**NATALIE TENNANT, *in her capacity as*
The Secretary of State, et al.,**
Defendants.

**JOINT OPENING BRIEF OF DEFENDANTS
JEFFREY KESSLER AND RICHARD THOMPSON**

I. INTRODUCTION

On August 5, 2011, the West Virginia Legislature enacted Enrolled S.B. 1008 to redistrict the state's three Congressional Districts for the elections in 2012 following the results of the 2010 census in accordance with the requirements of the United States Constitution and the West Virginia Constitution.

In enacting the bill, the Legislature followed several historic principles that have been consistently followed in the past half century. S.B. 1008 maintains the integrity of counties, avoids contests between incumbent Representatives, preserves the core of prior districts, protects communities of interest, establishes districts composed of contiguous counties and are compact, and achieves these objectives with as little change as possible. Further, the bill was enacted in good faith and with total disregard to partisan political considerations.

The bill contains a population variance of .79 percent among the three districts, which is nearly identical to the .78 percent variance in the case of *West Virginia Civil Liberties Union v. Rockefeller*, 336 F.Supp. 395 (S.D. W.Va. 1972) where the three judge District Court upheld West Virginia's 1971 congressional redistricting bill as constitutional. The *Rockefeller* case was cited by the United States Supreme Court in the case of *Karcher v. Daggett* as an example of where a "minor variance" in population is legitimate in the pursuit of certain policy objectives. 462 U.S. 725 at 740-41, 103 S.Ct. 2653 at 2663 (1983).

The bill also creates districts that are "compact" as required by Article 1, Section 4 of the West Virginia Constitution. In particular, the Second Congressional District that is challenged by Plaintiffs as violative of this provision, is compact in that it is similar to the District as constructed in 1991, which was upheld in *Stone v. Hechler*, 782 F. Supp. 1116 (N.D. W.Va.1992). The difference between the Second Congressional District under the 1991 plan and that in S.B. 1008 is that the District has been reduced in size by removing three counties, making it even more compact than the District as approved by the court in the *Stone* case.

Because the Legislature adopted a redistricting plan that has already been found compact, because the population variance is a mere one one-hundredth of a percent higher than the variance expressly approved by this Court and implicitly approved by the United States Supreme Court, and most importantly, because the variance from numerical equivalency is justified by the Legislature's expressed desire to achieve legitimate policy objectives, the Court should uphold the constitutionality of S.B. 1008.

II. RELEVANT FACTS

A. MODERN HISTORY OF CONGRESSIONAL REDISTRICTING IN WEST VIRGINIA

Since the decision by the United States Supreme Court in *Wesberry v. Sanders*, 376 U.S., 1 (1964), applying the principle of one person one vote in the congressional reapportionment context, the West Virginia Legislature has been consistent in applying basic policy objectives while complying with the “one man one vote” mandate. As previously stated, these policies are to maintain the integrity of counties, to comply with the state Constitution’s requirement for compactness, to avoid contests between incumbents, to preserve the core of prior districts, to make as little change as possible, and to act in good faith without political partisan considerations.

The first redistricting after *Wesberry* was done by the Legislature in 1971 following the 1970 census. H.B. 929 contained a population variance of .78 percent, which was upheld by a 3-judge Federal panel in *Rockefeller*. (Acts of the Legislature 1971, c.16, attached as Ex. A) The court placed particular emphasis on the fact that the legislation was “remarkably free of partisan politics” having been adopted with genuine bipartisan support. It also determined that the districts were compact under the state Constitution, including the Second Congressional District which at the time consisted of 20 counties, covering an area of 9,822 square miles, 40 percent of the state’s territory, even though it was one of four Districts. (See Square Mileage of West Virginia Counties, attached Ex. B)

The second Congressional redistricting in the modern era was accomplished in 1982 following the 1980 census. H.B. 1160 simply moved two of the State’s 55 counties among the four Congressional districts. (Acts of the Legislature 1982, c. 32, attached as Ex. C) As in the past, it maintained the integrity of counties; continued compactness by reducing the Second Congressional District by one county; avoided contests among the incumbents; and preserved the core of the Districts by making as little change as possible.

The third Congressional redistricting after the “one man one vote” decisions of the 1960’s took place in 1991 following the 1990 census. At that time, the Legislature was confronted with the need to reduce the number of districts from four to three. Despite this difficult assignment, it enacted a plan that created only one contest among the incumbents, and also maintained the integrity of counties. H.B. 221 created the basic structure of districts that has been in place for the past 20 years, including the Second Congressional District that has stretched from Jefferson to Mason counties. (Acts of the Legislature 1991, 2nd Ex. Sess. c. 14, attached as Ex. D) Under the bill, the Second District consisted of 20 counties, comprising 9,501 square miles, equal to 39.23 percent of the state’s territory. (See Square Mileage of West Virginia Counties, Ex. B) The bill was challenged in Federal court where a three judge District Court determined that it complied with the compactness requirement of the West Virginia Constitution. *Stone v. Hechler*, 782 F. Supp. 1116 (N.D.W.Va.1992)

The fourth time the Legislature engaged in redistricting in the modern era was in 2001 following the 2000 census. H.B. 510 simply moved Gilmer County from the Second to the First, and Nicholas County from the Second to the Third, which together comprised 994 square miles. (Acts of the Legislature 2001, 2nd Ex. Sess., c.9, attached as Ex. E) In so doing, the Second Congressional District, which had already been found by the court in 1991 to be compact, was reduced to 18 counties, comprising 8,513 square miles, equal to 35.13 percent of the state’s territory. (See Square Mileage of West Virginia Counties, Ex. B) According to the Almanac of American Politics, former state Senator James Humphreys who had lost the election to the Second Congressional District in 2000 to Republican Shelley Moore Capito had proposed a bill that would increase the Democratic advantage in the District for the 2002 election, but the Legislature rejected the proposal in favor of the simpler alternative that preserved the core of the

existing district and made as little change as possible. (See West Virginia Congressional District, www3.nationaljournal.com/pubs/almanac/2008/states/wv/wv_cong.htm, attached as Ex. F)

Finally, in 2011, the Legislature enacted S.B. 1008 which is at issue in this case. In keeping with the Legislature's longstanding practice of making as little change as possible, the bill simply moves Mason County from the Second Congressional District to the Third. It has a population variance of .79 percent, which is virtually identical to the .78 percent variance approved by the 3-judge Federal panel in the *Rockefeller* case, which was implicitly upheld by the U.S. Supreme Court in *Karcher*. With respect to compactness, the bill further reduces the size of the Second Congressional District, so that it will now consist of 17 counties, comprising 8,068 square miles, equal to 33.29 percent of the state's territory - almost precisely one third of West Virginia's 24,231 square miles. (See Square Mileage of West Virginia Counties, Ex. B) By removing Mason County, S.B 1008 also shortens the distance from the eastern edge of the District in Jefferson County to the western edge, which will now be in Putnam County instead of Mason.

The bill was passed with overwhelming bipartisan support, with only 1 vote against the bill in the Senate and only 5 votes in the House. Despite a 28 to 6 majority in the Senate, and a 65 to 35 majority in the House of Delegates, the Legislature enacted a bill that largely keeps in place a Congressional districting plan where Republicans hold 2 of the 3 seats. As discussed herein, the Legislature specifically rejected proposals offered at the request of the Democratic Congressional Campaign Committee, and took no action to benefit its own current or former members who have demonstrated interest in running for the seats. Once again, the Legislature demonstrated that its priorities in Congressional redistricting are maintaining the integrity of

counties; complying with compactness; avoiding contests among incumbent Representatives; preserving the core of prior districts; and accomplishing all of these with as little change as possible without regard to partisan politics.

B. CONGRESSIONAL REDISTRICTING WAS DONE IN GOOD FAITH AND WAS APOLITICAL

In the 1972 case of *West Virginia Civil Liberties Union v. Rockefeller*, the Court commended the Legislature for having enacted a redistricting plan that was “remarkably free of partisan politics.” 336 F. Supp. 395, 399 (S.D. W. Va. 1972). The Court noted that the plan had been adopted with genuine bipartisan support, and was done in good faith. (Id.)

The same is true, perhaps to an even greater extent, with respect to the enactment of S.B. 1008 in 2011. Despite the fact that the majority of members in both the Senate and House of Delegates, as well as the Governor, are Democrats, the Legislature adopted a plan that makes as little change as possible to the current districts in which two of the three incumbents are Republicans. The Democrats command a super majority of 28-6 in the state Senate, or 82 percent, and a similar majority of 65 to 35 in the 100 member House of Delegates.

The Charleston Gazette reported that the Democratic Congressional Campaign Committee (DCCC) favored two redistricting plans to the Legislature this year that were designed to increase the likelihood of the election of Democrats to Congress. (See “New Redistricting Plan Would Switch Mason County” CHARLESTON GAZETTE, Aug. 4, 2011, attached as Ex. G) At the request of the DCCC, Senator Roman Prezioso offered the plans as amendments to the bill under consideration by the Senate Redistricting Committee on August 4, 2011, and both were rejected by the Committee.

Further, the Legislature maintained the existing structure to the fullest extent possible, even though three current or former state Senators have either run unsuccessfully for Congress,

or have a committee in place to do so in the future, and could likely benefit from a redistricting that would increase their odds of success.

Former Democratic state Senator Michael Oliverio suffered an extremely narrow loss to Republican David McKinley in the First Congressional District just last year, where the margin was 50.4 percent to 49.6 percent -- only 1,440 votes. (See Election Results, attached as Ex. H) Of the 28 Democrats currently in the state Senate, 23 were colleagues of Senator Oliverio until his term expired at the end of last year. (See Senate Membership, attached as Ex. I) A plan offered on the Senate Floor as an alternative to S.B. 1008 that would have resulted in a net increase of 4,663 in the number of registered Democrats in the First District was defeated 14 to 17. (See Voters Registration Information, attached as Ex. J)(See also Discussion of Snyder Amendment, *infra*, at 17-18)

Current Democratic state Senator Erik Wells ran unsuccessfully as his party's nominee against incumbent Republican Shelley Moore Capito in 2004, but nonetheless carried the District's (and state's) largest county, Kanawha County, which itself constitutes approximately one-third of the District's population. (See Ex. K)

Current Democratic state Senator John Unger, who serves as Majority (i.e., Democratic) Leader and chairs the Redistricting Committee, filed pre-candidacy papers in 2007 to run for the Second Congressional District in 2008, but decided shortly before the formal filing period in January of 2008 not to run that year. He continues to maintain a Committee with the Federal Elections Commission with a current balance of almost \$48,000 that could be used for a future race. (See Federal Election Commission Report, attached as Ex. L)

The action of the Legislature in enacting S.B. 1008 is similar to that taken in 2001. Former Democratic state Senator James Humphreys narrowly lost to Republican Shelley Moore

Capito in 2000, and presented a plan to the Legislature in 2001 that would have moved three Republican-oriented counties from the District and would have added 3 Democratic-oriented counties, in order to increase the odds for a Democratic victory in the 2002 election. (See, Almanac, attached as Ex. F) Despite the obvious advantage to the party, the Democratic majority in both Houses of the Legislature rejected the proposal in 2001, and instead chose to make the minimal change by moving only 2 counties without regard to partisan politics.

It is clear that, despite containing an unusually strong majority of Democrats, the Legislature chose its longstanding principle of stability of districts over partisan advantage and even over personal advantage to colleagues and friends. All but one of the participating Senators ultimately voted for the plan that essentially preserves the three districts of which two of three are held by Republicans. (See Senate Journal, attached as Ex. M, at 52-53)¹ In the House of Delegates, the vote was 90 in favor to 5 against, with 5 absent. (See House Roll Call Vote, attached as Ex. N) The only votes against the bill were by 3 delegates from the Eastern Panhandle, and 2 delegates representing Mason County. In both Houses, the votes were made in complete good faith and were overwhelmingly bipartisan. Even the 5 negative votes in the House of Delegates were bipartisan expressions, with 3 from Democrats and 2 from Republicans. Finally, Democratic Senate President Earl Ray Tomblin, acting as Governor, approved the bill.

C. THE LEGISLATURE'S ENACTMENT OF S.B. 1008 WAS THOROUGH AND WELL REASONED

Congressional redistricting is an ongoing process, for which the Legislature was well-prepared even before the figures from the 2010 census were made available in April 2011. Many

¹ Throughout the Brief, a number of documents from the Senate record are cited. Attached as Exhibit AA please find a certification from the Clerk of the Senate documenting the authenticity of these records from the Senate.

members of the Legislature, and most members of the leadership of both Houses, had participated in the redistricting ten years earlier, at which time the Legislature adjusted the state's three Congressional districts by simply moving two counties from the Second Congressional District. The Legislature took steps to insure that its members were well informed as to the facts and the law in Congressional redistricting in order to achieve compliance with Constitutional requirements as well as its policy objectives. These steps included:

- The establishment and maintenance since 1991 of a full-time professionally staffed Redistricting Office under the jurisdiction of the Legislature's Joint Committee on Government and Finance, a statutory body consisting of the leadership of both the Senate and House and Delegates.
- The availability to members of the Legislature, of assistance by professional staff in the Redistricting Office in devising proposed Congressional districts. These services include the drawing of maps; the determination of population variances; and the results of the major formulae used in determining "compactness".
- The establishment by the Senate of a Redistricting Task Force in March of 2011, consisting of 17 Senators – one half the membership – which held 12 open meetings throughout the state, at which the public was invited to speak.
- The establishment by each of the Houses of websites in the Spring of 2011, explaining the redistricting process, and inviting public comment.²
- The establishment by the House of a Redistricting Committee, which held two meetings prior to the extraordinary session, at which it heard from national and state experts on the elements of redistricting.
- The sending of several members of the Legislature's professional staff to seminars on legal and other issues relating to redistricting, conducted by the National Conference of State Legislatures.

² See <http://www.legis.state.wv.us/senate1/redistricting.cfm> and <http://www.legis.state.wv.us/house/redistricting.cfm>

By taking these steps, the Legislature ensured that it was well informed as an institution about the constitutional requirements of reapportioning congressional districts.

D. THE LEGISLATURE CLEARLY EXPRESSED ITS LEGITIMATE POLICY OBJECTIVES

The Senate Redistricting Committee held a meeting on August 4, 2011 during which Professor Bob Bastress of the West Virginia University College of Law offered testimony explaining the Federal and state constitutional standards for congressional redistricting. Professor Bastress informed the Legislature that “the overriding principle . . . with congressional redistricting is the requirement to achieve perfect equality; that is, a perfect one person, one vote districts. [sic] Variations from that are permitted if they’re minor variations and if they are necessary to achieve some legitimate state interest. And the court has been quite rigid in insisting that the Legislature make every good faith effort to achieve perfect equality.” (Senate Redistricting Comm., 8/4/11, attached as Ex. O at 8.)

The Legislature was informed that any variation from perfect numerical equality had to be justified. Professor Bastress explained that traditional redistricting criteria which could justify a deviation from numerical equality include following traditional communities of interest, preserving preexisting districts, avoiding contests between incumbents, and complying with the State Constitutional requirement of compactness. (Id. at 9) Armed with this knowledge, State Senators explained their legitimate interest in varying slightly from numerical equality.

Professor Bastress was asked about the 1991 challenge to the State’s congressional districts in *Stone v. Hechler*, 782 F.Supp. 1116 (N.D. W. Va. 1992). Bastress explained that in 1991, the redistricting plan adopted by the Legislature was not the most equal, that the State had to justify its deviation, and that the Court found that the State carried its burden.

Senator Corey Palumbo asked whether the constitutional requirements with respect to redistricting had changed since 1991, and Bastress explained they had not. (Senate Redistricting Comm., 8/4/11 at 11-12) (“Q: And the requirements for the congressional districts have been essentially the same over the course of the last 20 years. Have they changed at all? A: No, that was adopted in 1991, challenged in 1991 and not challenged in 2001. Q: But I mean the requirements that we’re bound to follow in drafting these districts - - those haven’t changed, have they? A: Those have not changed. You’re right. That’s correct.”)

The questioning by Senator Palumbo evidences intent to follow closely the same justifications that the Legislature gave in 1991 for deviating from numerical equivalency: compactness, preserving the core of existing districts, keeping communities of interest intact, and avoiding contests between incumbents. Senators knew that the Federal court in *Stone* upheld the constitutionality of the 1991 plan and that the Federal constitutional requirements for redistricting had not been altered by the Federal courts in the intervening 20 years. In supporting a redistricting plan that closely mirrors the 1991 plan, Legislators could not have done any more to preserve the core of existing districts. Additionally, they took a plan that was held to be compact in *Stone* and made it more compact by removing Mason County, the westernmost county in the prior Second Congressional District.

Senators understood that in support of efforts to preserve the core of existing congressional districts, West Virginia has typically made as small a change as possible to existing congressional districts – particularly in those years when the state has retained the same number of seats in the House of Representatives. (Senate Redistricting Comm., 8/4/11 at 47)(Senator Clark Barnes) (“I also would like to point out that historically West Virginia as we have looked at our maps every ten years - - unless we had to add a district or remove a district - -

historically we have not changed our districts substantially.”) In further support for keeping West Virginia’s pre-existing congressional maps Senator Barnes noted that he had recently visited 53 of the State’s 55 counties during his campaign for the Republican nomination for Governor. Barnes stated that “[n]owhere did I hear anyone complain about their representation, no matter who it was, or complain about the district, the way it was laid out. There were no complaints.” (Id. at 48)

The Senate considered the possibility of keeping the existing districts intact while at the same time achieving numerical equivalency by carving the precise number of people out of the Second Congressional District and putting them into the First and Third Congressional Districts. Senator Palumbo asked Professor Bastress whether the plan adopted by the Legislature would be more defensible if the requisite number of people were moved “from the northern part of Wirt County” to the First District and from the “southern part of Randolph County” to the Third District. (Id. at 53) Professor Bastress explained that achieving numerical equivalence in that way would insulate the plan from a Federal constitutional challenge.

The Legislature chose not to amend the plan in the manner discussed by Senator Palumbo’s hypothetical because of the State’s long history of keeping counties intact during congressional redistricting. Senator Mike Hall, in discussing the Supreme Court’s *Karcher* opinion with Professor Bastress noted that protecting the integrity of West Virginia’s counties was a justification for the plan adopted by the Legislature. (Id. at 52) (“But in this case county lines are what they are and I think that would be a justifiable argument to keep it that way.”)

In passing the bill, the Legislature also made clear its intent to keep together communities of interest. Senator Barnes, in supporting the ultimately adopted plan in the Redistricting Committee said:

You know, not only are we keeping the core of a district together; but we're keeping the core of three districts together. And I think that's very important; because you know, when you look at the southern [third] district, primarily we certainly have a coalfields district. In the northern part, I can tell you that the areas around Keyser, the areas around Marshall County and all, there's a lot of commonality between those two areas even though they're on different sides of the state

When we look at the second district, the commonality is striking. Number one, we have the two largest counties, populations, in the state in Kanawha County and Berkeley County. And with large populations you face similar challenges - - similar challenges in law enforcement, similar challenges in growth, similar challenges with your cities within the area."

Id. at 56.

Senator Barnes went on to note that two areas on opposite ends of the Second District: the Eastern Panhandle and Putnam County, were two of the fastest growing areas of West Virginia. (Id. at 57) These remarks demonstrate that the Senate considered communities of interest within the State and valued keeping them intact within a single congressional district.

The Senate recognized that, with respect to issues confronted by urban areas, the Eastern Panhandle shared common challenges with Charleston and Kanawha County. The Senate recognized that Jefferson and Berkeley Counties share the challenge of growth with Putnam County.

When the debate moved to the floor of the Senate, Senators continued to express their interest in preserving communities of interest within congressional districts and protecting the core of existing districts. Senator Brooks McCabe argued that while the plan ultimately adopted moved only residents of Mason County from one congressional district to another, the plan offered by Senator Snyder would have forced tens of thousands of additional residents to move from one district to another. (See Remarks of Senator Brooks F. McCabe, Jr., Reapportioning congressional districts, 8/5/11, attached as Ex. P at 1) ("We're talking about 47,000 to 52,000

people from one district to another.”)³ Senator McCabe explained that a total of seven counties would move from one congressional district to another under the Snyder amendment compared to only one county shifted by S.B. 1008, and that the Snyder plan would not improve compactness because the district would still run from Putnam County in the west to Jefferson County in the east. (Id. at 2) (“The plan that was approved yesterday [in the Redistricting Committee] requires one county to be moved from one congressional district to another. This particular amendment requires seven counties to be moved from one district to another. . . . As best I can tell, the amendment before us in no way affects the length of the district. It still runs from Putnam County all the way up to Jefferson County. So we still have a long district. In fact, the action that was taken yesterday by moving Mason County reduced the length of the district.”)

Senator McCabe also considered the Kanawha Valley as an economic unit when evaluating communities of interest, stating:

“The 52,000 people that are in Jackson and Roane, particularly, and Wirt are important to Kanawha County. We, in my home county, need to look at that. We understand the importance of a united economy around which our district operates. And Jackson County, Putnam County, and Roane County are key to how we, as an economy, operate. We are talking about moving Jackson and Roane counties as well as Wirt to the district to the north of us, to the First District and acquiring three other counties in the bottom of the Eastern Panhandle in the Second District. That has an effect on how we view the world, how our economy and how our counties interact immediately around us.”

Id. at 1-2.

³ Senator McCabe was considering only the additional residents moved from one congressional district to another in Jackson, Roane, and Wirt counties. Accounting for the fact that residents of Grant, Mineral, and Tucker counties would also be forced to change congressional districts by the Snyder Amendment, a total of 97,144 additional residents would move from one congressional district to another under the Snyder Amendment as compared with the S.B. 1008 as adopted.

Senator Mike Hall explained on the floor that the Senate could reduce the population variance all the way to zero, but doing so would cause the Senate to cut counties – a step that the Senate was not willing to take. (Remarks of Senator Mike Hall, Reapportioning congressional districts, 8/5/11, attached as Ex. Q at 2) (“There is a difference in variance which we could fix by amendment – there are two amendments but they would divide counties – but we could fix the variance issue like the perfect plan did.”)

As the debate in both the Senate Redistricting Committee and on the Senate floor make clear, the Senate took into account preserving communities of interest, preserving the existing congressional districts as closely as possible, and avoided splitting any county between congressional districts. The debate demonstrates that Senators understood their constitutional obligation to come as close as practicable to precise population equivalence between congressional districts and to deviate only where necessary to achieve a legitimate objective. Senators placed on the record their legitimate reasons for the minor deviation from zero variance in the plan they adopted, and the record demonstrates that S.B. 1008 as adopted best meets the Legislature’s policy objectives.

**E. S.B. 1008 IS SUPERIOR TO OTHER PLANS IN MEETING THE
LEGISLATURE’S POLICY OBJECTIVES**

As enacted, S.B. 1008 is superior to other plans in meeting the Legislature’s principal policy objective of maintaining the stability of Congressional districts, while meeting the requirements of both the U.S. and West Virginia Constitutions, in that it moves the fewest number of citizens from one district to another without splitting counties. All other plans either split counties, or move more counties and people than does S.B. 1008.

At the Redistricting Committee’s August 4, 2011 meeting, Senators considered five congressional redistricting proposals. At the request of Senators, staff prepared a draft “zero

variance” redistricting plan which placed 615,665 persons in Congressional Districts 1 and 2, and 615,664 persons in Congressional District 3. This proposal would have split Harrison County between the First and Second Congressional Districts, and would have split Kanawha County between the First and Third Congressional Districts. (See attached Ex. R) The proposal also would have shifted 19 counties and 636,187 residents – over 34 percent of the state’s population – from one congressional district to another. Perhaps in recognition of the zero variance plan’s failure to achieve the objectives of keeping counties unified within a congressional district and preserving the core of existing districts, this zero variance plan was not introduced as a bill by any Senator or Delegate, nor was it considered as a floor amendment in either the House or the Senate.

At the August 4, 2011 meeting, the Committee first considered an Amendment by Senator Roman Prezioso. (See attached Ex. S) Senator Prezioso’s amendment would have created a population variance of 1.22 percent – a level which the Legislature considered to be too high under the Federal constitutional standard. Additionally, the amendment would move nine counties containing 143,605 residents from one district to another. The amendment was defeated by voice vote.

Senator Prezioso offered a second amendment which mirrored his initial proposal, except that Tucker County, rather than Ritchie County, was moved from the First District to the Second District. (See attached Ex. T) While this second amendment had a smaller variance than the first Prezioso amendment, it still had a variance of .44 percent from numerical equivalency. The amendment would still move nine counties from one district to another, and these counties consist of 140,297 residents. The Committee rejected the second Prezioso amendment.

Senator Douglas Facemire next offered an amendment that would have significantly redrawn the state's congressional map, shifting 20 counties and 717,837 residents from one congressional district to another. (See attached Ex. U) Senator Facemire's plan would have placed incumbent Representatives Shelley Moore Capito and David McKinley in the First Congressional District. The districts, as drawn by Senator Facemire, had a population variance of .42 percent. The Senate rejected the Facemire Amendment.

Finally, the Committee considered and adopted an Amendment by Senator Clark Barnes, one of only 6 Republicans in the Senate. The Barnes Amendment kept the three existing congressional districts intact, except for shifting Mason County from the Second District to the Third District. Accordingly, only 27,324 residents - less than two percent of the state's population - were moved from one congressional district to another.

Based on the Barnes Amendment, the Senate Redistricting Committee originated S.B. 1008. Under this plan, which was adopted by the Legislature, the First Congressional District includes 615,991 persons, the Second Congressional District 620,862 persons, and the Third Congressional District 616,141 persons. The plan has a population variance of .79 percent. (See attached Ex. V)

The Senate considered the redistricting issue on the Floor on August 5, 2011. The sole amendment considered on the floor was offered by Senator Herb Snyder. (See attached Ex. W) The Snyder Amendment would have modified the existing congressional districts by shifting Mason County from the Second District to the Third District, shifting Grant, Mineral, and Tucker Counties from the First District to the Second District, and shifting Jackson, Roane, and Wirt Counties from the Second District to the First District. The Snyder Amendment had a population variance of .39 percent. In sum, seven counties totaling 124,468 residents - 6.7

percent of the state's population - would have moved from one congressional district to another under the Snyder Amendment. The Snyder Amendment was defeated by a recorded vote of 14 to 17. (See Senate Journal, attached as Ex. M, at 52)

Intervening Plaintiff Thornton Cooper submitted three proposed congressional redistricting plans at public hearings held by the Senate's redistricting task force. The Cooper plans, however, did not comport with the policy objections expressed by the Legislature. Cooper Plan 1 would have placed incumbent Representatives Nick Rahall and Shelley Moore Capito into the same congressional district. The plan would also move 23 counties and 813,363 residents – 43.8 percent of the state's population – from one district to another. (See attached Ex. X) Cooper Plan 2 would also place Rahall and Capito in the same district, while shifting 20 counties totaling 949,065 residents from one district to another. (See attached Ex. Y) Cooper Plan 3 would move 21 counties totaling 746,732 residents – over 40 percent of the state's population from one district to another. (See attached Ex. Z) The three plans submitted by Cooper had small population variances, but were so out of step with the Legislature's objective of preserving existing congressional districts and avoiding contests between incumbents, as well as the state's four decade tradition of making the smallest changes possible in reapportionment, that no member of the Legislature saw fit to introduce any of Cooper's plans as a bill or as an amendment.

During the course of this litigation, Cooper proposed a fourth plan. This plan would split Taylor County between the First and Third Congressional Districts. Additionally, this fourth Cooper plan would shift more than one-third of the state's residents from one district to another. Aside from its failure to comport with the Legislature's policy objectives of keeping counties intact and preserving existing congressional districts, Cooper's fourth plan, unlike all other plans

considered, was not available to the Legislature when it approved S.B. 1008 and has not been the subject of public or legislative consideration.

III. LEGAL ARGUMENT

Jefferson County and Cooper each challenge the constitutionality of Senate Bill 1008. Jefferson County's challenge to West Virginia's congressional redistricting is based upon three constitutional provisions: the Equal Protection Clause of the Fourteenth Amendment to United States Constitution (Count I), Article I, Section 2 of the United States Constitution (Count I), and Article I, Section 4 of the West Virginia Constitution (Count II & Count III). [Doc. 1 at pp. 6-7] The challenges in Count I and Count II of the Complaint arise from the variances in population in the three congressional districts. *Id.* The challenge in Count III stems from the claim that the shape of the new Second Congressional District violates the compactness requirements of Article I, Section 4 of the West Virginia Constitution. *Id.* at p. 7. Cooper, based on Article I, Section 2 of the United States Constitution and Article I, Section 4 of the West Virginia Constitution, only makes the challenge based on population variances. [Doc. 15 at p.7]

In determining similar challenges to the 1990 West Virginia congressional redistricting, this Court's predecessor three judge panel cautioned:

The Supreme Court has repeatedly stated that "redistricting and reapportioning legislative bodies is a legislative task which the federal courts should make every effort not to preempt." *Wise v. Lipscomb*, 437 U.S. 535, 539, 98 S.Ct. 2493, 2497, 57 L.Ed.2d 411 (1978). Further, a federal district court "should follow the policies and preferences of the State, as expressed in statutory and constitutional provisions or in the reapportionment plans proposed by the state legislature, whenever adherence to state policy does not detract from the requirements of the Federal Constitution" in the context of congressional reapportionment. *White v. Weiser*, 412 U.S. 783, 795, 93 S.Ct. 2348, 2355, 37 L.Ed.2d 335 (1973).

Stone v. Hechler, 782 F.Supp. 1116, 1124 (N.D. W.Va. 1992). Thus, this Court should not lose sight of the fact that redistricting is inherently political:

“[W]hether or not nonpopulation factors are expressly taken into account in shaping political districts, they are inevitably everpresent and operative. They influence all election outcomes in all sets of districts. The key concept to grasp is that there are no neutral lines for legislative districts ... every line drawn aligns partisans and interest blocs in a particular way different from the alignment that would result from putting the line in some other place.’ Dixon, Fair Criteria and Procedures for Establishing Legislative Districts 7-8, in *Representation and Redistricting Issues* (B. Grofman, A. Lijphart, R. McKay, & H. Scarrow eds. 1982).”

Davis v. Bandemer, 478 U.S. 109, 129, 106 S.Ct. 2797, 2808 (1986). Simply put, the choice between various constitutional plans is a matter of legislative judgment and not a proper function for a court specially comprised to determine the constitutionality of the plan ultimately adopted.

After careful consideration of both the constitutional requirements and traditional concepts of sound redistricting, the West Virginia Legislature enacted Senate Bill 1008 after determining that legitimate state policies justified both the variance in population and the geographic configuration of the districts. For the reasons noted below, this Court should reject both the Jefferson County and Cooper challenges.

A. SENATE BILL 1008 COMPLIES WITH THE POPULATION EQUALITY REQUIREMENTS OF THE UNITED STATES CONSTITUTION AND THE WEST VIRGINIA CONSTITUTION AS THE SMALL INTER-DISTRICT DEVIATIONS IN POPULATION IN SENATE BILL 1008 ARE JUSTIFIED BY TRADITIONAL REDISTRICTING PRINCIPLES THAT EMBODY LEGITIMATE STATE POLICY OBJECTIVES.

1. The Plaintiffs’ Population Equality Challenges in this Case are Governed by Article I, Section 2 of the United States Constitution.

As noted above, the Plaintiffs cite three different constitutional provisions in support of their population equality challenge to Senate Bill 1008. An examination of the provisions and

the judicial decisions interpreting them establishes that the population equality challenges in this case are governed by Article I, Section 2 of the United States Constitution.

Article I, Section 2 of the United States Constitution provides that the members of the House of Representatives shall be chosen “by the People of the several States.” In *Wesberry v. Sanders*, 376 U.S. 1, 7-8, 84 S.Ct. 526, 530 (1964), the Supreme Court held that this command “means that as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's.” *Id.* (footnote omitted). The Court concluded by stating that equal representation is the goal: “While it may not be possible to draw congressional districts with mathematical precision, that is no excuse for ignoring our Constitution's plain objective of making equal representation for equal numbers of people the fundamental goal for the House of Representatives.” *Id.* at 18, 84 S.Ct. at 535.

With respect to congressional districts, Article I, Section 4, of the West Virginia Constitution requires that: “Each district shall contain as nearly as may be, an equal number of population to be determined according to the rule prescribed in the constitution of the United States.” By its explicit terms, this provision incorporates the standard for population equality set forth in the United States Constitution. In addition, this Court's 1992 predecessor rejected the idea that the state provision requires a stricter standard for population variance than the Federal constitutional requirements. *See Stone v. Hechler*, 782 F.Supp. at 1128. Thus, because the West Virginia Constitution does not impose different or stricter requirements for population equality challenges, it is not necessary to separately analyze Article I, Section 4, of the West Virginia Constitution.

Finally, Jefferson County cites the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution in support of its population equality challenge. The Supreme

Court evaluates population equality claims for congressional districts solely under Article I, Section 2, reserving the Equal Protection Clause analysis for population equality challenges to the reapportionment of state legislative districts. *See Gaffney v. Cummings*, 412 U.S. 735, 741-42, 93 S.Ct. 2321, 2325-26 (1973); *Mahan v. Howell*, 410 U.S. 315, 322, 93 S.Ct. 979, 984 (1973); *see also Brown v. Thomson*, 462 U.S. 835, 850, n.2, 103 S.Ct. 2690, 2700, n.2 (1983) (O'Connor, J., Concurring) ("The Court has recognized that States enjoy a somewhat greater degree of latitude as to population disparities in a state legislative apportionment scheme, which is tested under Equal Protection Clause standards, than in a congressional redistricting scheme, for which the Court has held that Art. I, § 2 of the Constitution provides the governing standard."). Indeed, *Reynolds v. Sims*, 377 U.S. 533, 577, 84 S.Ct. 1362, 1390, (1964), the case cited by Jefferson County [Doc. 1 at ¶ 35], involved state legislative apportionment not congressional districts. Likewise, population equality challenges to congressional districts in West Virginia have focused on Article I, Section 2. *Stone v. Hechler, supra*; *West Virginia Civil Liberties Union v. Rockefeller*, 336 F.Supp. 395, 397 (D. W.Va. 1972).

The less than 1% population deviation created by Senate Bill 1008 would be insufficient to create a prima facie case of an equal protection violation. *Brown v. Thomson* 462 U.S. at 842-43, 103 S.Ct. at 2696 ("[W]e have held that minor deviations from mathematical equality . . . are insufficient to make out a prima facie case of invidious discrimination under the Fourteenth Amendment. . . . [A]n apportionment plan with a maximum population deviation under 10% falls within this category of minor deviations." (citations and internal quotations omitted)). Thus, even if equal protection analysis is appropriate, any equal protection challenge here fails to set forth a prima facie case.

Thus, for these reasons, this Court should judge the population equality challenges to Senate Bill 1008 solely on the basis of Article I, Section 2 of the United States Constitution.

2. Article I, Section 2 of the United States Constitution Permits Small Inter-District Deviations in Population to be Justified by Legitimate State Policy Objectives.

The Supreme Court first adopted the modern population equality standard of Article I, Section 2 of the United States Constitution in *Wesberry*, *supra*. As the West Virginia three-judge panel recognized in *Stone v. Hechler*, 782 F.Supp. at 1124, the Supreme Court refined the *Wesberry* requirements in *Kirkpatrick v. Preisler*, 394 U.S. 526, 89 S.Ct. 1225 (1969) and *Karcher v. Daggett*, 462 U.S. 725, 103 S.Ct. 2653, 77 L.Ed.2d 133 (1983). *Kirkpatrick* created and *Karcher* reaffirmed a two-step test for determining the constitutionality of congressional reapportionment legislation.

In *Stone v. Hechler*, the West Virginia Court described the *Kirkpatrick/Karcher* test:

[T]he party challenging the constitutionality of a congressional redistricting plan bears the burden of proof of first showing that “the population differences among districts could have been reduced or eliminated altogether by a good faith effort to draw districts of equal population.” [*Karcher*, *supra*] at 730–31, 103 S.Ct. at 2658. If the party challenging the redistricting plan can demonstrate that the population variations could have been avoided, “the burden of proving that each significant variance between the districts was necessary to achieve some legitimate goal” shifts to the State. *Id.* at 731, 103 S.Ct. at 2658 (citing *Kirkpatrick*, 394 U.S. at 532, 89 S.Ct. at 1229–30; *Swann v. Adams*, 385 U.S. 440, 443–44, 87 S.Ct. 569, 571–72, 17 L.Ed.2d 501 (1967)).

Stone v. Hechler, 782 F.Supp. at 1124.

Both *Karcher* and *Kirkpatrick* make it clear that states are not required to reduce the population variance to the numerical minimum variance. Instead, in step two of the test, the State has the burden to justify the variance:

Any number of consistently applied legislative policies might justify some variance, including, for instance, making districts compact, respecting municipal boundaries, preserving the cores of prior districts, and avoiding contests between incumbent Representatives. As long as the criteria are nondiscriminatory these are all legitimate objectives that on a proper showing could justify minor population deviations.

Karcher, 462 U.S. at 740-41, 103 S.Ct. at 2663-64 (citation omitted). Finally, the Supreme Court has made it clear that the test under step two is a flexible one:

The showing required to justify population deviations is flexible, depending on the size of the deviations, the importance of the State's interests, the consistency with which the plan as a whole reflects those interests, and the availability of alternatives that might substantially vindicate those interests yet approximate population equality more closely.

Karcher, *supra* at 741, 103 S.Ct. at 2664. In determining these issues, this Court has traditionally looked favorably on congressional redistricting legislation that is adopted with wide-spread, bipartisan support. *See West Virginia Civil Liberties Union v. Rockefeller*, 336 F.Supp. at 399 (“In contrast [to *Kirkpatrick*], the record here reveals the legislation was remarkably free of partisan politics, it having been adopted with genuine by-party support in both the committee and the legislative body.”).

Finally, while there is no variance under the Supreme Court’s current jurisprudence that can be considered *de minimus*, variances less than 1% have been deemed acceptable in stage two of *Kirkpatrick/Karcher* when they are accompanied by nondiscriminatory legislative policies --

even in the face of alternative plans that have smaller variances. *See, e.g., Skolnick v. State Electoral Bd. of Ill.*, 336 F.Supp. 839, 843 & n.2, 846 (D.C.Ill., 1971) (after considering four plans with 1% variance or less, Court adopted plan with total variance of 0.75% which was third largest variance); *Doulin v. White*, 535 F.Supp. 450, 452 (D.C.Ark., 1982) (after finding adopted state plan with 2.10% variance unconstitutional, Court adopted previous version that had passed one house of legislature with .78% variance and rejecting six plans with variances as low as .13%); *Turner v. State of Ark.*, 784 F.Supp. 585, 589 (E.D.Ark. 1991) (rejecting challenge to plan with .73% variance in spite of proposed alternatives with variances of .65% and .41% finding that alternatives failed to meet the twin objectives of causing the fewest changes in the location of counties and people as well as adopted plan).

Of course, the most notable rejection of a challenge to a plan with a less than 1% variance was this Court's opinion in *West Virginia Civil Liberties Union v. Rockefeller*, *supra*, which rejected a challenge to the West Virginia congressional districts adopted after the 1970 census which had a total deviation of .78% finding that state had justified the rejection of plans with lower variances on the basis of the desire to comply with the West Virginia Constitution's contiguity and compactness provisions. 336 F.Supp at 399-400. In doing so, the Court emphasized that, in conducting the part-two analysis of the *Kirkpatrick* test, a less than 1% variation made the State's burden slight. *See id.* at 399 ("Obviously, it would be very difficult to markedly reduce the variances in a plan which, in fact, only varies 0.35% above and 0.43% below the mathematical ideal."); *see also Skolnick*, 336 F.Supp. at 843 (Court specifically found that four plans with less than 1% variance were indistinguishable on population basis -- "the variances in each plan are so small that the only way to distinguish among them is to consider what non-population factors went into the drawing of each.").

3. The Small Inter-District Deviations in Population in Senate Bill 1008 are Justified by the Consistently Applied State Policy Objectives of Making Districts Compact, Respecting Municipal Boundaries, Preserving the Cores of Prior Districts, and Avoiding Contests Between Incumbent Representatives.

In enacting Senate Bill 1008, the West Virginia Legislature was cognizant of the requirements of the *Kirkpatrick/Karcher* test. Senate Bill 1008 was adopted in spite of the fact that alternatives with lower variances existed because the Legislature determined that the consistently applied policy objectives of making districts compact, respecting municipal boundaries, preserving the cores of prior districts, and avoiding contests between incumbent representatives justified the small variances between districts. *See Karcher, supra*. Because each of the four policy objectives identified in *Karcher* exist here, the Legislature easily meets its burden under the second step in the *Kirkpatrick/Karcher* test.

As an initial matter, it is significant that partisan politics did not underlay the enactment of Senate Bill 1008. The bill was passed in both houses by a substantial, bi-partisan vote. Indeed, the Democratic controlled Legislature rejected alternative proposals that would increase the likelihood of replacing the two Republican incumbent representatives. The Governor who signed this bill was also a Democrat. Like the 1970s redistricting at issue in *West Virginia Civil Liberties Union v. Rockefeller*, “the record here reveals the legislation was remarkably free of partisan politics, it having been adopted with genuine by-party support in both the committee and the legislative body.” In judging the Legislature’s justifications under the *Kirkpatrick/Karcher* test, this Court should give great weight to the non-partisan environment in which the congressional redistricting bill was adopted.

The first consistently applied policy objective supporting the adopted plan is the objective of making districts compact. As the Court recognized in both *West Virginia Civil Liberties*

Union v. Rockefeller and *Stone v. Hechler*, the West Virginia Constitution's compactness requirement constitutes a valid policy objective that can justify the small population deviations in the plan. See *Stone v. Hechler*, 782 F.Supp at 1128; *West Virginia Civil Liberties Union v. Rockefeller*, 336 F.Supp at 399. Indeed, in *West Virginia Civil Liberties Union v. Rockefeller*, the Court found compactness alone was sufficient to justify a plan adopted in a non-partisan atmosphere in spite of a .78% deficiency.

As noted above, the plan at issue here is clearly more compact than the plan approved in 1972. Similarly, the plan found to be compact in *Stone v. Hechler*, in 1992 was the forerunner of the current plan. The shift of Mason County from the Second District to the Third District in Senate Bill 1008 makes the Second district more compact than the district approved in *Stone v. Hechler*. *West Virginia Civil Liberties Union v. Rockefeller* and *Stone v. Hechler* establish that balancing compactness with other factors has been a consistent policy objective in the setting of West Virginia's congressional districts.

The second state policy approved by *Karcher* is respecting municipal boundaries. West Virginia's constitution requires congressional districts to "be formed of contiguous counties." W.Va. Const. art. I, § 4. Both *West Virginia Civil Liberties Union v. Rockefeller* and *Stone v. Hechler* explicitly approve consideration of this requirement as part of the *Kirkpatrick/Karcher* test. See *Stone v. Hechler*, 782 F.Supp. at 1129 (citing *West Virginia Civil Liberties Union v. Rockefeller*, 336 F.Supp. at 399). As noted above, preservation of county lines has been a consistent part of West Virginia's congressional district plans. Senate Bill 1008 does not split

any counties.⁴ The same cannot be said for many of the options considered and rejected or proposed by the Plaintiffs. *See, infra* pp. 15-19.

The third policy approved by *Karcher* is preserving the cores of prior districts. *Stone v. Hechler, supra* recognized that preserving district cores was a valid state policy. 782 F.Supp. at 1127. In that case, a plan which severed two counties and 47,252 people was determined to be consistent with this policy goal. 782 F.Supp. at 1127 & n.18. The history of West Virginia congressional districts shows a concerted effort to preserve district cores – even in the face of the loss of a representative as was the case in the 1990’s redistricting. Here only a single county and 27,324 people are severed from the prior district. Each of the competing plans sever more people. The consistently applied policy of preserving district cores serves as an adequate justification for the variance contained in Senate Bill 1008.

Finally, the fourth policy approved by *Karcher* is avoiding contests between incumbent representatives. Senate Bill 1008 separates the residences of each of the incumbent West Virginia congressional representatives. Four of the competing plans have the residences of two of the representatives in a single district. In modern West Virginia redistricting, incumbent representatives have been placed in the same district only when necessary because of the loss of a congressional seat in the reapportionment process. *See, e.g., Stone v. Hechler*, 782 F.Supp. at 1118; *West Virginia Civil Liberties Union v. Rockefeller*, 336 F.Supp. at 396. Redistricting in 1980 and 2000 did not place incumbents in the same districts. That this is a consistent policy of

⁴As noted above, Senate Bill 1008 was also designed to keep together as much as possible various communities of interest. While not specifically identified in *Karcher*, this is a valid state policy that can support a deviation. *See Abrams v. Johnson*, 521 U.S. 74, 100, 117 S.Ct. 1925, 1940 (1997) (recognizing that small counties represent communities of interest); *Karcher*, 462 U.S. at 758, 103 S.Ct. 2653 (Stevens, J., concurring) (“Residents of political units such as townships, cities, and counties often develop a community of interest...”); *Marylanders for Fair Representation, Inc. v. Schaefer* 849 F.Supp. 1022, 1036 (D.Md. 1994) (finding protection of communities of interest valid state policy under *Karcher*); *Puerto Rican Legal Defense and Educ. Fund, Inc. v. Gantt*, 796 F.Supp. 681, 687 (E.D.N.Y. 1992) (same).

the state is evident by the fact that it has been upheld by the Democratic majority in the Legislature and the Democratic Governor in spite of the fact that two of the incumbent representatives are now Republicans.

The variances in this case are supported by all four of the potential justifications identified in *Karcher*. None of the competing plans come close to meeting these four consistently applied state policies. As such, the State has met its burden of establishing that the small deviations in the populations of the three congressional districts are justified by consistently applied legitimate state policies.

4. The Small Inter-District Deviations in Population in Senate Bill 1008 are De Minimus and are not Constitutionally Significant.

The West Virginia Legislature believes that it made a good-faith effort to achieve the population equality required by Article I, Section 2 of the United States Constitution. The Legislature believes that population variances below 1% are statistically insignificant and are insufficient to establish a prima facie case of a violation of Article I, Section 2 of the United States Constitution. Challenges to insignificant variances create uncertainty in the electoral process and expensive and time consuming litigation for the State and the constitutional officers sued herein. The Legislature acknowledges that its belief is contradicted by the opinions in *Kirkpatrick*, *Karcher*, and *Stone v. Hechler*. While ample justification exists, the State does not concede that it is necessary for it to justify the variances and reserves the right to seek modification of the holdings of these cases if necessary on appeal or cross-appeal of any judgment entered by this Court.

B. SENATE BILL 1008 COMPLIES WITH THE COMPACTNESS REQUIREMENTS OF ARTICLE I, SECTION 4 OF THE WEST VIRGINIA CONSTITUTION.

Only Jefferson County challenges the Senate Bill 1008 on the grounds that the new congressional redistricting plan fails to meet the compactness requirement of the West Virginia Constitution. This challenge fails.

First, any determination of compactness must take into account the peculiar characteristics of West Virginia geography:

Physical characteristics of West Virginia are significant to the determination of compactness issues. To the extent that it was not specifically covered by record evidence, the Court takes judicial notice of the State's unique geographical configurations. There are two narrow panhandles. The northern panhandle, consisting of four counties, extends between the borders of Ohio and Pennsylvania. The eastern panhandle, consisting of eight counties and part of a ninth, is bordered by Maryland and Virginia. This is compounded, of course, by the irregular boundaries of counties within the State, which are largely determined by rivers and mountain ranges. Finally, these problems must be reconciled with the West Virginia constitutional requirement that districts be drawn with adherence to county lines. Likewise, we judicially notice: the mountainous terrain throughout the State with particularly rugged portions of the Appalachian range in the south and southwest; the fairly long and broad valleys formed by the Ohio and Kanawha Rivers; the contrast in quality of road transportation between areas served by Interstate Highways 64, 68, 70, 77, 79, and 81 and those serviced by often poorly developed mountain highways in various parts of the State; the sharply contrasting concentrations of population, for example, Kanawha County has an official population of 207,619 and a total area of 913.338 square miles while the contiguous Clay County has a population of 9,983 and a total area of 346.61 square miles; and that this sharp variation between the few areas of concentrated populations and sparsely populated contiguous areas exists throughout the State.

Stone v. Hechler, 782 F.Supp. at 1123. While the West Virginia population has changed somewhat since 1990, its geography has not.

The basic configuration of the current Second Congressional District was constructed by the redistricting of 1991, when the number of Representatives to which West Virginia is entitled was reduced from four to three. In the redistricting of 2001, the Second Congressional District was reduced in area, by removing two counties that contained a total of 994 square miles. S.B. 1008 further reduces the area of the Second Congressional District, by removing Mason County that contains 445 square miles. The result is that the Second Congressional District will now be comprised of almost precisely one third of West Virginia's 24,231 square miles. By removing Mason County, S.B. 1008 also shortens the distance from the eastern edge of the District in Jefferson County to the western edge, which will now be in Putnam County instead of Mason.

The Second Congressional District is clearly more compact under S.B. 1008 than under the current structure enacted in 2001, as it simply removes Mason County on its western edge, and Plaintiffs have not stated that this removal causes an issue with the compactness requirement under the state Constitution.

The Court in *Stone v. Hechler* considered the compactness question in the context of a congressional district plan that varied very little from the plan enacted by Senate Bill 1008. On the issue of compliance with West Virginia Constitution's Article I, Section 6 compactness requirement the Court held:

After reviewing the experts' calculations and considering the floor debate and record evidence, we have come to the view that Plan II follows the West Virginia constitutional dictate that districts be compact. The West Virginia Constitution does not define compactness but imposes upon the State Legislature the obligation to consider it as a principal factor in apportioning congressional districts. The Legislature was aware both of the state constitutional requirement and the effect of compactness in the federal constitutional equation. We think it has been adequately demonstrated that each legislative body kept the concept of compactness as a principal goal of its redistricting efforts and did

this primarily in pursuit of fulfilling its State constitutional obligations. The fact that there were other Plans that would be deemed more compact than Plan II under the three tests employed by the experts does not detract from the Legislature's effort. In the legislative view, the districts in Plan II were compact as the Legislature viewed that requirement under the West Virginia Constitution, and in weighing that and other legitimate legislative goals it was acting preeminently in a role reserved to a state legislature by the United States Supreme Court.

Stone v. Hechler, 782 F.Supp. at 1128. Mathematically and conceptually, the plan adopted by Senate Bill 1008 is more compact than the Plan II at issue in *Stone v. Hechler*.

Jefferson County has offered no reasoned basis for concluding that the districts in Senate Bill 1008 are not compact. Its challenge is, in reality, a challenge to the original conclusion in *Stone v. Hechler*. Ironically, comparing the Senate Bill 1008 districts and the 1990 districts in *Stone v. Hechler* with the 1980 districts that preceded them shows that the basic configuration used since 1990 is more compact than the 1980 districts they replaced.

Notably, the Plaintiffs' expert in *Stone v. Hechler* was Thornton Cooper, the intervening Plaintiff in this case. Mr. Cooper's complaint does not challenge Senate Bill 1008 on compactness grounds. Simply put, Jefferson County cannot meet its burden of establishing that Senate Bill 1008 violates the compactness requirements of Article I, Section 6 of the West Virginia Constitution.

IV. CONCLUSION

In presenting the various alternative plans either not considered or considered and rejected, the Plaintiffs seek to improperly lead the Court into refereeing a debate over which plan is the best plan. That is not the function of this Court which is limited to determining only whether Senate Bill 1008 complies with the United States and West Virginia Constitutions. Some of the alternative plans may be constitutional. Some may think the alternative plans are

better. Choosing between constitutional plans is the function of the Legislature whose judgment on that question this Court is not permitted to address:

[T]he Court is of the opinion that it is obligated to give deference to the decision of the Arkansas Legislature, whose duty it is, after all, to formulate and enact a redistricting plan. The Court finds that the guideline decisions made by the legislature concerning redistricting were legitimate and reasonable and were also within its competence to make. The mal-apportionment claim of the plaintiffs and of the Lonoke County intervenor, Mr. Malone, must therefore be dismissed.

Turner v. State of Arkansas, 784 F.Supp. at 589. Because Senate Bill 1008 complies with all relevant constitutional requirements, the complaints herein should be dismissed.

**JEFFREY KESSLER, in his capacity
as President of West Virginia Senate**

/s/ George E. Carenbauer
George E. Carenbauer (W. Va. Bar No. 634)
Adam B. Tomlinson (W. Va. Bar No. 11311)
STEPTOE & JOHNSON PLLC
707 Virginia Street, East, Eighth Floor
P.O. Box 1588
Charleston, WV 25326-1588
(304) 353-8000 - telephone
(304) 353-8180 - facsimile
george.carenbauer@steptoe-johnson.com
adam.tomlinson@steptoe-johnson.com
Attorneys for President Kessler

**RICHARD THOMPSON, in his capacity as the
Speaker of the West Virginia House of Delegates**

/s/ Anthony J. Majestro
Anthony J. Majestro (W. Va. Bar No. 5165)
Cynthia A. Majestro (W. Va. Bar No. 5092)
Powell & Majestro, PLLC
405 Capitol Street, Suite P1200
Charleston, WV 25301
(304) 346-2889 – telephone
(304) 346-2895 – facsimile
amajestro@powellmajestro.com
cmajestro@powellmajestro.com
Attorneys for Speaker Thompson

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA
At Charleston**

JEFFERSON COUNTY COMMISSION, et. al.
Plaintiffs,

and

THORNTON COOPER,
Intervening Plaintiff,

v.

**Civil Action No. 2:11-CV-00989
(Judges King, Bailey, and Berger)**

**NATALIE TENNANT, in her capacity as
The Secretary of State, et al.,**
Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of December, 2011, I electronically filed the foregoing **“Joint Opening Brief of Defendants Jeffrey Kessler and Richard Thompson”** with the Clerk of the Court using the CM/ECF system which will provide notice to counsel of record as follows:

David M. Hammer, Esq.
Hammer, Ferretti & Schiavoni
408 W. King Street
Martinsburg, WV 25401
Counsel for Plaintiffs

Thornton Cooper, Esq. *pro se*
3015 Ridgeview Drive
South Charleston, WV 25303

Stephen G. Skinner, Esq.
Skinner Law Firm
P O Box 487
Charles Town, WV 25414
Counsel for Plaintiffs

Thomas Rodd, Esq
West Virginia Attorney General's Office
812 Quarrier Street, 6th Floor
Charleston, WV 25301
*Counsel for the Secretary of State and
the Governor*

/s/ Adam B. Tomlinson
Adam B. Tomlinson (W. Va. Bar No. 11311)

EXHIBIT A

ACTS
OF THE
LEGISLATURE
OF
WEST VIRGINIA



Regular Session, 1971
First Extraordinary Session, 1971
Second Extraordinary Session, 1970

Ch. 16]	CONGRESSIONAL DISTRICTS	121
106	(63) St. Joseph's Hospital	9.25
107	(64) St. Joseph's Hospital	15.00
108	(65) St. Joseph's Hospital	1,160.38
109	(66) St. Joseph's Hospital	28.00
110	(67) The Red Head Oil Company	52.75
111	(68) Picker X Ray	347.16
112	(69) Empire Foods, Inc.	494.70
113	(70) General Electric Company	2,594.82
114	(71) Kellogg Sales Company	547.70
115	(72) James Produce Company	572.97
116	(73) Fairmont Foods Company	1,310.34
117	(74) Union Oil Company of California ..	302.24
118	(75) Standard Brands Sales Company	1,290.40
119	(76) Ace Exterminators, Inc.	160.00
120	(77) A. B. Dick Products Company	211.60
121	(78) Capitol Paper Supply, Inc.	382.80
122	(79) Genuine Parts Co. of W. Va.	94.39
123	(80) Noe Office Equipment	281.68
124	(81) The Universal Supply Co.	172.14
125	(82) McGlothlin Printing Co.	546.76
126	(b) Claims against West Virginia board of	
127	regents:	
128	(1) Appalachian Power Company	34,979.13
129	(2) Potomac Edison Company of W. Va.	5,170.24
130	(3) Utilities, Inc.	4,915.82
131	(c) Claims against the department of public	
132	institutions:	
133	(1) Crook's Wholesale Food Company	1,657.90

CHAPTER 16

(House Bill No. 929—By Mr. Loop and Mr. Fantasia)

[Passed March 6, 1971; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article two, chapter one of the code of West Virginia, one thousand nine

hundred thirty-one, as amended, relating to the number of members to which the state is entitled in the House of Representatives of the United States Congress and arranging the counties of the state into districts for the election thereof.

Be it enacted by the Legislature of West Virginia:

That section three, article two, chapter one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. APPORTIONMENT OF REPRESENTATION.

§1-2-3. Congressional districts.

1 The number of members to which the state is entitled
2 in the House of Representatives of the Congress of the
3 United States shall be apportioned among the several
4 counties of the state, arranged into four congressional
5 districts, numbered as follows:

6 First District: Brooke, Doddridge, Hancock, Harrison,
7 Marion, Marshall, Ohio, Pleasants, Tyler, Wetzel and
8 Wood.

9 Second District: Barbour, Berkeley, Fayette, Grant,
10 Greenbrier, Hampshire, Hardy, Jefferson, Lewis, Mineral,
11 Monongalia, Monroe, Morgan, Pendleton, Pocahontas,
12 Preston, Randolph, Summers, Taylor, Tucker, Upshur
13 and Webster.

14 Third District: Boone, Braxton, Calhoun, Clay, Gil-
15 mer, Jackson, Kanawha, Lincoln, Mason, Nicholas, Put-
16 nam, Ritchie, Roane and Wirt.

17 Fourth District: Cabell, Logan, McDowell, Mercer,
18 Mingo, Raleigh, Wayne and Wyoming.

—o—

CHAPTER 17

(Senate Bill No. 74—Originating in the Senate Committee on the Judiciary)

[Passed February 8, 1971; in effect ninety days from passage. Approved by the Governor.]

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state of West

EXHIBIT B

ATTACHMENT B
To Intervening Plaintiff Thornton
Cooper Notice in
Civil Action No. 2-11-CV-989

1060

WEST VIRGINIA BLUE BOOK

	Feet
Ripley	616
Romney	800
Sage	1,463
Saint Albans	598
Saint Marys	620
Sand Fork	745
Shepherdstown	405
Slatersville	640
Smithsburg	797
South Charleston	700
Spencer	749
Summersville	1,926
Sutton	940
Terra Alta	2,569
Thomas	3,100
Union	2,071

	Feet
Wart	1,355
Wardensville	1,011
Wayne	708
Webster Springs	1,490
Wairton	600
Welch	1,306
Wellsburg	260
West Hamlin	590
Weston	1,023
Westover	820
West Union	785
Wheeling	673
White Sulphur Springs	1,980
Whitesville	840
Williamson	720
Williamstown	620
Winfield	539

AREA OF WEST VIRGINIA BY COUNTIES*

(Compiled from data furnished by West Virginia Geological and Economic Survey)

County	Square Miles	County	Square Miles
Barbour	342.9	Mingo	423.9
Berkeley	321.8	Monongalia	365.8
Boone	503.2	Monroe	473.5
Braxton	516.7	Morgan	229.6
Brooke	92.8	Nicholas	664.1
Cabell	288.1	Ohio	108.9
Calhoun	280.4	Pendleton	608.1
Clay	346.4	Pleasants	134.6
Doddridge	320.0	Pocahontas	941.6
Fayette	668.7	Preston	651.4
Gilmer	339.7	Putnam	350.3
Grant	460.3	Raleigh	608.9
Greenbrier	1,024.8	Randolph	1,040.0
Hampshire	644.5	Richie	453.7
Hancock	68.2	Roane	484.0
Hardy	584.8	Summers	367.6
Harrison	416.6	Taylor	175.6
Jackson	471.2	Tucker	421.6
Jefferson	211.0	Tyler	260.7
Kanawha	908.4	Upshur	354.7
Lewis	389.5	Wayne	512.3
Lincoln	439.9	Webster	556.2
Logan	455.6	Wetzel	361.3
McDowell	535.0	Wirt	235.1
Marion	311.6	Wood	377.0
Marshall	311.9	Wyoming	501.9
Mason	445.2		
Mercer	420.8		
Mineral	329.3		
		TOTAL AREA	24,231.4

*Includes water area.

GEOGRA

The geographical center of County, 4 1/2 miles southeast of the center are: 80

SOURCES

(Compiled from data)

Formed by the junction of Ohio at Kenova, Wayne

Formed by the junction of River at Point Marion, Penn

Formed by the junction of Mouth, junction with Ka

Formed in western part Fork, Mouth, junction with

Formed in western part Mouth, junction with New

Formed in northern part junction with New River at

Formed in southern part Mouth, junction with Ohio

Formed by the junction Mouth, junction with Ohio

Source in southern part County

Formed by the junction the Allegheny River at Ft

Source in southern part with Gauley River in Fayette

Formed by the junction Mouth, junction with Mi

Source in the southeast County

Formed by the junction Mouth, Chesapeake Bay

EXHIBIT C

ACTS
OF THE
LEGISLATURE
OF
WEST VIRGINIA



Regular Session, 1982
First Extraordinary Session, 1982

Ch. 32]

CONGRESSIONAL DISTRICTS

165

48 (c) *Claims against the Insurance Department:*

49 TO BE PAID FROM GENERAL REVENUE FUND

50 (1) Copy Graphics, Inc. \$ 522.13

CHAPTER 32

(H. B. 1160—By Mr. Damron, 10th Dist., and Mr. Tucker)

[Passed January 28, 1982; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article two, chapter one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the number of members to which the state is entitled in the House of Representatives of the United States Congress and arranging the counties of the state into districts for the election thereof.

Be it enacted by the Legislature of West Virginia:

That section three, article two, chapter one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. APPORTIONMENT OF REPRESENTATION.

§1-2-3. Congressional districts.

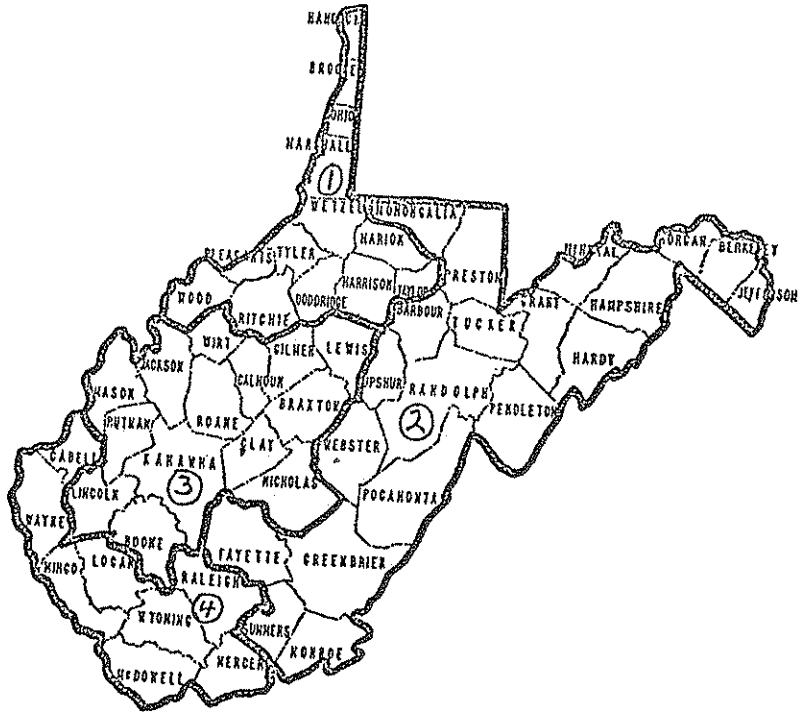
1 The number of members to which the state is entitled in the
2 House of Representatives of the Congress of the United States
3 shall be apportioned among the several counties of the state,
4 arranged into four congressional districts, numbered as fol-
5 lows:

6 First District: Brooke, Doddridge, Hancock, Harrison,
7 Marion, Marshall, Ohio, Pleasants, Ritchie, Taylor, Tyler,
8 Wetzel and Wood.

9 Second District: Barbour, Berkeley, Fayette, Grant, Green-
10 brier, Hampshire, Hardy, Jefferson, Mineral, Monongalia,
11 Monroe, Morgan, Pendleton, Pocahontas, Preston, Randolph,
12 Summers, Tucker, Upshur and Webster.

13 Third District: Boone, Braxton, Calhoun, Clay, Gilmer,

- 14 Jackson, Kanawha, Lewis, Lincoln, Mason, Nicholas, Putnam, Roane and Wirt.
 15
 16 Fourth District: Cabell, Logan, McDowell, Mercer, Mingo,
 17 Raleigh, Wayne and Wyoming.



CHAPTER 33

(S. B. 86—By Mr. McGraw, Mr. President)

[Passed February 5, 1982; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two hundred four and two hundred ten, article two, chapter sixty-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authority of the state board of pharmacy; recommendations to the Legislature; schedules of controlled substances.

EXHIBIT D

ACTS
OF THE
LEGISLATURE
OF
WEST VIRGINIA



Second Extraordinary Session, 1991
Third Extraordinary Session, 1991

CHAPTER 14

(H. B. 221—By Delegates Damron and Staton)

[Passed October 11, 1991; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article two, chapter one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the apportionment of congressional districts in this state; and redistricting same.

Be it enacted by the Legislature of West Virginia:

That section three, article two, chapter one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. APPORTIONMENT OF REPRESENTATION.

§1-2-3. Congressional districts.

1 The number of members to which the state is entitled
2 in the House of Representatives of the Congress of the
3 United States shall be apportioned among the several
4 counties of the state, arranged into three congressional
5 districts, numbered as follows:

6 First District: Barbour, Brooke, Doddridge, Grant,
7 Hancock, Harrison, Marion, Marshall, Mineral, Monon-
8 galia, Ohio, Pleasants, Preston, Ritchie, Taylor, Tucker,
9 Tyler, Wetzel and Wood.

10 Second District: Berkeley, Braxton, Calhoun, Clay,
11 Gilmer, Hampshire, Hardy, Jackson, Jefferson, Kana-
12 wha, Lewis, Mason, Morgan, Nicholas, Pendleton,
13 Putnam, Randolph, Roane, Upshur and Wirt.

14 Third District: Boone, Cabell, Fayette, Greenbrier,
15 Lincoln, Logan, McDowell, Mercer, Mingo, Monroe,
16 Pocahontas, Raleigh, Summers, Wayne, Webster and
17 Wyoming.

EXHIBIT E

ACTS
OF THE
LEGISLATURE
OF
WEST VIRGINIA



Regular Session, 2002
First Extraordinary Session, 2002
Second Extraordinary Session, 2002
Fifth Extraordinary Session, 2001
Sixth Extraordinary Session, 2001

Volume II
Chapters 189 — 326
Chapters 1 — 8
Chapters 1 — 31
Chapters 1 — 12
Chapters 1 — 23

Ch. 9]

REDISTRICTING

2979

48 the division of environmental protection with respect to the
 49 proposed mining activity and the particular permit applicant
 50 coincide with the particular factors or criteria to be considered
 51 and analyzed under the rule, the rule will direct a conclusion as
 52 to the amount of the bond to be required, subject to rebuttal and
 53 refutation of the findings by the applicant. To the extent
 54 practicable, the rule shall limit subjectivity and discretion by
 55 the secretary and the division in fixing the amount of the bond.

CHAPTER 9

(H. B. 510 — By Delegates Staton, Givens, Mezzatesta, Pino,
 Warner, Trump and Smirl)

[Passed September 19, 2001; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article two, chapter one
 of the code of West Virginia, one thousand nine hundred thirty-
 one, as amended, relating to the composition of congressional
 districts.

Be it enacted by the Legislature of West Virginia:

That section three, article two, chapter one of the code of West
 Virginia, one thousand nine hundred thirty-one, as amended, be
 amended and reenacted to read as follows:

ARTICLE 2. APPORTIONMENT OF REPRESENTATION.

§1-2-3. Congressional districts.

1 The number of members to which the state is entitled in the
 2 House of Representatives of the Congress of the United States
 3 are apportioned among the counties of the state, arranged into
 4 three congressional districts, numbered as follows:

2980

REDISTRICTING

[Ch. 9]

5 First District: Barbour, Brooke, Doddridge, Gilmer, Grant,
 6 Hancock, Harrison, Marion, Marshall, Mineral, Monongalia,
 7 Ohio, Pleasants, Preston, Ritchie, Taylor, Tucker, Tyler, Wetzel
 8 and Wood.

9 Second District: Berkeley, Braxton, Calhoun, Clay,
 10 Hampshire, Hardy, Jackson, Jefferson, Kanawha, Lewis,
 11 Mason, Morgan, Pendleton, Putnam, Randolph, Roane, Upshur
 12 and Wirt.

13 Third District: Boone, Cabell, Fayette, Greenbrier, Lincoln,
 14 Logan, McDowell, Mercer, Mingo, Monroe, Nicholas,
 15 Pocahontas, Raleigh, Summers, Wayne, Webster and Wyo-
 16 ming.

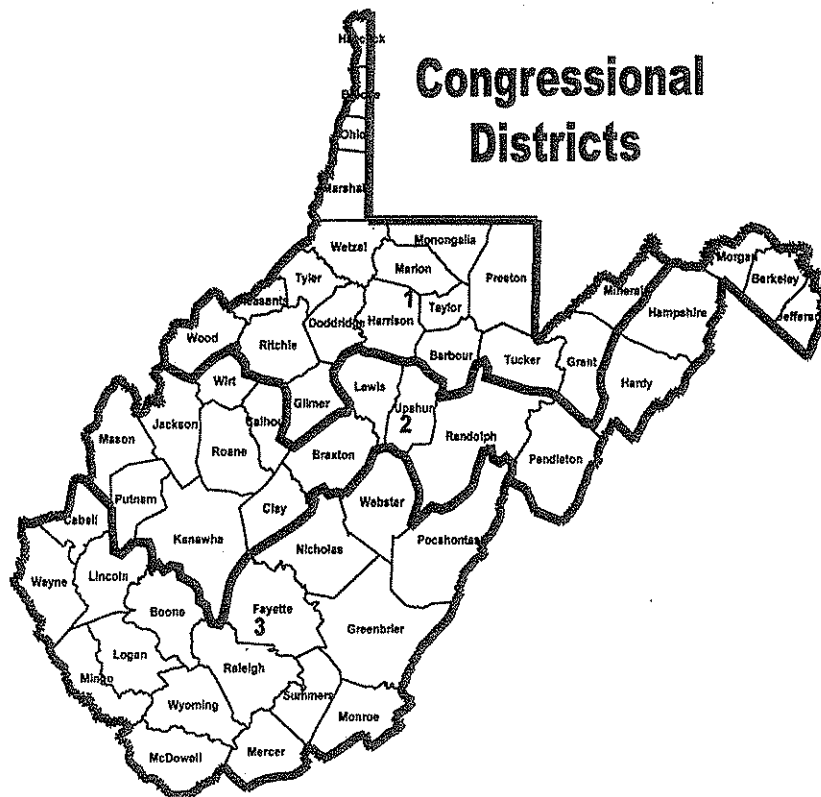


EXHIBIT F

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Almanac

December 18, 2011

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EXECUTIVE**.com

West Virginia

Congressional Districting

Last Updated December 5, 2007

110th Congress Lineup: 2 D, 1 R

109th Congress Lineup: 2 D, 1 R

District Map: [Click here](#)

West Virginia's three congressional districts, created after the state lost one House seat in the 1990 Census, were not significantly altered in redistricting—even though the process was dominated by Democrats and the sole Republican, Shelley Moore Capito, who won an open seat narrowly in 2000, could have been harmed by a partisan redrawing of the lines. But one or both of the state's two Democratic incumbents might have been weakened, if not for the general election, then in a possible primary, by such a plan. One Democratic legislator suggested removing the eastern panhandle counties from Capito's 2d District, and her 2000 opponent, trial lawyer Jim Humphreys, called for a plan that removed three Republican counties west of Charleston and substituted three heavily Democratic coal-mining counties to the south. But most legislators, preoccupied with redrawing their own districts, were content to please all three incumbents. In a September 2001 special session, the legislature with one dissenting vote removed Gilmer County from the 2d and placed it in the 1st and removed Nicholas County from the 2d and placed it in the 3d: Both are Democratic counties that had no significant impact on the 2002 results.

Projections based on 2000–06 population growth suggest that West Virginia will not lose a district in the reapportionment following the 2010 Census. If it does, the almost inevitable result is that the central 2d District represented now by Republican Shelley Moore Capito will be split between the 1st and 3d Districts now represented by Democrats Alan Mollohan and Nick Rahall.



West Virginia At A Glance

[Go](#)

For district profiles and additional information on the elected officials of West Virginia, please use the pull-down menu above.

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EXHIBIT G

August 4, 2011

New redistricting plan would switch Mason County



Chris Dorst

West Virginia University law professor Bob Bastress tells state senators what laws they need to be aware of as they revamp the state's three congressional districts.

By Alison Knezevich

Page 2 of 2

CHARLESTON, W.Va. -- A state Senate panel has picked a simple fix for redrawing West Virginia's congressional districts over a proposal that would have dramatically shifted the lines.

The Senate redistricting committee on Thursday endorsed a plan to keep the state's three districts nearly the same as they are now. The only change would be in Mason County, which would shift from Republican Rep. Shelley Moore Capito's 2nd District to the 3rd District, represented by Democratic Rep. Nick Rahall.

Republican Rep. David McKinley's 1st District would remain entirely intact.

Sen. Clark Barnes, R-Randolph, sponsored the plan to switch Mason. He said that during his unsuccessful bid for the Republican gubernatorial nomination this year, he heard from voters who were satisfied with the current makeup of the districts.

"We're keeping the core of three districts together," he said of the plan.

Barnes said that each current district is made up of communities with common interests. For instance, the 3rd District includes the coalfields, and the 2nd District has the state's fastest growing areas -- the Eastern Panhandle and Putnam County.

The committee sent the proposal to the Senate floor, where it was read for the first time Thursday evening.

House of Delegates leaders have said they favor a simple change rather than dramatic shifts in congressional districts.

The Senate committee rejected a plan earlier unveiled by Senate Majority Leader John Unger, a Berkeley County Democrat.

On Wednesday, Unger, who chairs the redistricting committee, had presented what he calls "The Perfect Population Plan." Two districts would contain 617,665 residents -- considered the ideal district size -- while the other would fall one person short of that target.

The plan would shift many counties and would split Kanawha and Harrison counties among congressional districts. And it would put Capito and McKinley in the same district.

After the meeting, Unger said he believes the plan to switch Mason County would face court challenges. In it, district populations would range from 615,991 in the 1st District to 620,862 in the 2nd District, which he says violates the concept of "one person, one vote."

The 2nd District's layout also fails the state constitution's requirement that districts be compact, he said.

He also called the Mason County plan "purely congressional incumbency protection."

Republican leaders have called Unger's plan partisan, and criticized it for putting McKinley and Capito in the same district.

Unger said Thursday that congressional candidates don't have to live in the district they want to represent.

"It does not pit [Capito and McKinley] against each other," he said.

Some have suggested that Unger wants to run for Congress, and that the proposal he released would favor him. In 2008, Unger planned a congressional campaign but changed his mind at the last minute.

Unger, a pastor, said Thursday he has no plans to run for Congress, saying he's "very happy" in his current job.

"And frankly, what's going on in Washington, D.C. embarrasses me," he said.

The committee rejected two maps devised by Sen. Roman Prezioso, a Marion County Democrat. The Democratic Congressional Campaign Committee favored those plans. Members also said no to a proposal drafted by Sen. Herb Snyder, D-Jefferson.

Reach Alison Knezevich at alis...@wvgazette.com or 304-348-1240.

EXHIBIT H

Election Results Center

Election ID: 10G1102A Description: General Election
November 2, 2010

Statewide County

★★★ Official Results ★★★

[View Other Results](#)

2010 -- General

Official

Statewide

[View Results](#)

Number of Counties Reporting 55

Number of Precincts

Number of Precincts Reporting

[Back to map](#)

Straight Ticket

Candidate	Party	Votes	Percentage
Democratic Party	Democrat	81,853	53.23%
Republican Party	Republican	70,252	45.69%
Mountain Party	Mountain	1,335	0.87%
Constitution Party	Constitution	318	0.21%
		Total Votes:	
		153,758	

[Back To Top](#)

U.S. Senate

Candidate	Party	Votes	Percentage
Joe Manchin III	Democrat	283,358	53.47%
John Reeves Raese	Republican	230,013	43.40%
Jesse Clarence Johnson Jr.	Mountain	10,152	1.92%
Jeffrey Conrad Becker	Constitution	6,425	1.21%
		Total Votes:	
		529,948	

[Back To Top](#)

U.S. House of Representatives — District 1			
Candidate	Party	Votes	Percentage
David B. McKinley	Republican	90,660	50.40%
Michael Angelo Oliverio, III	Democrat	89,220	49.60%
		Total Votes:	
		179,880	

EXHIBIT I

2010 West Virginia Senate Members by District

1st

Edwin Bowman, (D) Hancock
Jack Yost, (D) Brooke

2nd

Larry J. Edgell, (D) Wetzel
Jeffrey V. Kessler, (D) Marshall

3rd

Donna Boley, (R) Pleasants
Frank Deem, (R) Wood

4th

Karen Facemyer, (R) Jackson
Mike Hall, (R) Putnam

5th

Evan Jenkins, (D) Cabell
Robert Plymale, (D) Wayne

6th

Truman Chafin, (D) Mingo
John Pat Fanning, (D) McDowell

7th

Ron Stollings, (D) Boone
Earl Ray Tomblin, (D) Logan

8th

Corey Palumbo, (D) Kanawha
Erik Wells, (D) Kanawha

9th

Richard Browning, (D) Wyoming
Mike Green, (D) Raleigh

10th

Don Caruth, (R) Mercer
Jesse Guills, (R) Greenbrier

11th

William Laird, (D) Fayette
Randy White, (D) Webster

12th

Douglas Facemire, (D) Braxton
Joseph Minard, (D) Harrison

13th

Michael Oliverio, (D) Monongalia
Roman Prezioso, (D) Marion

14th

Dave Sypolt, (R) Preston
Bob Williams, (D) Taylor

15th

Clark Barnes, (R) Randolph
Walt Helmick, (D) Pocahontas

16th

Herb Snyder, (D) Jefferson
John Unger II, (D) Berkeley

17th

Dan Foster, (D) Kanawha
Brooks McCabe, (D) Kanawha

2011 West Virginia Senate Members by District

1st

Orphy Klempa, (D) Ohio

Jack Yost, (D) Brooke

2nd

Larry J. Edgell, (D) Wetzel

Jeffrey V. Kessler, (D) Marshall

3rd

Donna Boley, (R) Pleasants

David Nohe, (R) Wood

4th

Karen Facemyer, (R) Jackson

Mike Hall, (R) Putnam

5th

Evan Jenkins, (D) Cabell

Robert Plymale, (D) Wayne

6th

Truman Chafin, (D) Mingo

John Pat Fanning, (D) McDowell

7th

Ron Stollings, (D) Boone

Earl Ray Tomblin, (D) Logan

8th

Corey Palumbo, (D) Kanawha

Erik Wells, (D) Kanawha

9th

Richard Browning, (D) Wyoming

Mike Green, (D) Raleigh

10th

Ron Miller, (D) Greenbrier

Mark Wills, (D) Mercer

11th

William Laird, (D) Fayette

Greg Tucker, (D) Nicholas

12th

Douglas Facemire, (D) Braxton

Joseph Minard, (D) Harrison

13th

Robert Beach, (D) Monongalia
Roman Prezioso, (D) Marion

14th

Dave Sypolt, (R) Preston
Bob Williams, (D) Taylor

15th

Clark Barnes, (R) Randolph
Walt Helmick, (D) Pocahontas

16th

Herb Snyder, (D) Jefferson
John Unger II, (D) Berkeley

17th

Dan Foster, (D) Kanawha
Brooks McCabe, (D) Kanawha

EXHIBIT J

West Virginia Voter Registration October 2011

County	Republican	Democrat	Mountain	No Party Affiliation	Other	Total
BARBOUR	3413	4716	6	1365	156	9656
BERKELEY	23216	22508	137	17795	289	63945
BOONE	1857	13016	7	1372	346	16598
BRAXTON	1505	6051	4	974	48	8582
BROOKE	3830	10730	9	2828	97	17494
CABELL	18687	30449	66	9381	494	59077
CALHOUN	1214	3380	9	816	131	5550
CLAY	1229	4435	1	560	144	6369
DODDRIDGE	2677	1173	9	737	146	4742
FAYETTE	4850	17553	35	4066	130	26634
GILMER	931	3145	7	474	133	4690
GRANT	5269	1299	4	1409	31	8012
GREENBRIER	6715	13659	18	3563	1061	25016
HAMPSHIRE	4788	5802	27	2659	1031	14307
HANCOCK	5897	13648	12	3652	213	23422
HARDY	2149	4637	8	1709	22	8525
HARRISON	12007	23626	33	7380	126	43172
JACKSON	8569	8800	24	3479	320	21192
JEFFERSON	10021	13286	76	10115	688	34186
KANAWHA	36848	69112	149	22840	1514	130463
LEWIS	3189	4157	11	1317	35	8709
LINCOLN	2955	13896	6	1920	197	18974
LOGAN	2362	20347	8	1622	493	24832
MARION	9343	25764	35	5377	1443	41962
MARSHALL	6146	11132	22	3899	368	21567
MASON	6002	9947	11	2469	231	18660
MCDOWELL	1258	12095	9	1726	370	15458
MERCER	9658	20687	52	7206	698	38301
MINERAL	7829	6711	11	4023	171	18745
MINGO	1870	17272	4	1402	245	20793
MONONGALIA	15515	27117	76	11314	658	54680
MONROE	3266	4917	3	1495	66	9747
MORGAN	4875	3435	46	2725	290	11371
NICHOLAS	3696	9770	29	2062	303	15860
OHIO	10013	15856	28	4628	2201	32726
PENDLETON	1551	2895	4	801	126	5377
PLEASANTS	1581	2573		824	135	5113
POCAHONTAS	1321	2588	3	878	13	4803
PRESTON	8327	7999	13	3410	134	19883
PUTNAM	14919	15712	33	5804	409	36877
RALEIGH	14983	30709	36	9664	389	55781

RANDOLPH	4073	10639	21	2750	470	17953
RITCHIE	3730	2030	6	1086	148	7000
ROANE	3330	4410	18	1999	20	9777
SUMMERS	1706	5983	9	1149	144	8991
TAYLOR	3226	5178	4	1392	391	10191
TUCKER	1533	2689	5	613	311	5151
TYLER	2960	2083	4	941	65	6053
UPSHUR	6650	4681	10	2387	34	13762
WAYNE	7028	19634	13	2748	393	29816
WEBSTER	679	4561	8	371	368	5987
WETZEL	2727	7979	7	1509	211	12433
WIRT	1524	2152	5	706	60	4447
WOOD	21822	21442	39	11114	415	54832
WYOMING	3464	12559	11	1610	476	18120
Total	350783	642624	1241	202115	19601	1216364
	28.84%	52.83%	0.10%	16.62%	1.61%	

EXHIBIT K



Certificate

*I, Joe Manchin, III, Secretary of State of the
State of West Virginia, hereby certify that*

the following results are the official returns

of the federal, statewide and judicial offices and

for the constitutional amendment that were on the ballot

for the General Election conducted on the 2nd day of November 2004

according to the certificates of results

that were received from the fifty-five counties of the State of West Virginia.



*Given under my hand and the
Great Seal of the State of
West Virginia on
January 3, 2005*


Secretary of State

U.S. House of Representatives

District 2
(One to be elected)

	Erik Wells Democrat Charleston	Julian Martin Mountain Charleston	Shelley Moore Capito Republican Charleston
County			
Berkeley	9549	447	21772
Braxton	3074	44	2366
Calhoun	1307	63	1520
Clay	2089	45	1901
Hampshire	2284	162	5289
Hardy	1301	50	3463
Jackson	5384	192	7674
Jefferson	7377	338	11058
Kanawha	42701	748	42685
Lewis	2572	147	4235
Mason	4591	202	7133
Morgan	1723	109	4531
Pendleton	1235	17	2029
Putnam	9840	216	14672
Randolph	4604	234	6543
Roane	2720	91	3310
Upshur	2918	98	5911
Wirt	862	15	1584
Totals	106131	3218	147676

EXHIBIT L

Presented by the Federal Election Commission

NOTE:

Candidate listings may appear here as a result of draft committees or independent expenditure committees registering with the FEC. If no official documents of an authorized committee appear below, the individual identified here has taken no action to become a candidate.

UNGER, JOHN R II
CHALLENGER

ID: H8WV02073

Office Sought: House
State: West Virginia
District: 02
Party: DEM (Democratic Party)

PRINCIPAL CAMPAIGN COMMITTEE: UNGER FOR CONGRESS
ID: C00436378

Search For:

Contributions Made by This Candidate's Committees

Committees Who Gave to This Candidate

These Contributions are taken from the reports of those committees giving contributions. As a result, they may cover different time periods depending on the reporting schedules of various committees.

Individuals Who Gave to This Candidate

TRY A: NEW QUERY

RETURN TO: FEC HOME PAGE

Presented by the Federal Election Commission

Committee ID: C00436378

UNGER FOR CONGRESS

P.O. BOX 2415
MARTINSBURG, WV 25402

Treasurer Name:	KIMBERLY ANNE SENCINDIVER
Committee Designation:	P (PRINCIPAL CAMPAIGN COMMITTEE OF A CANDIDATE)
Committee Type:	HOUSE
Candidate State:	West Virginia

Link To: UNGER, JOHN R II

Search For:

Contributions Received By This Candidate's Committees

Committees And Candidates Supported/Opposed

Individuals Who Gave To This Committee

TRY A: NEW QUERY

RETURN TO: FEC HOME PAGE

Presented by the Federal Election Commission

NOTE:

Candidate listings may appear here as a result of draft committees or independent expenditure committees registering with the FEC. If no official documents of an authorized committee appear below, the individual identified here has taken no action to become a candidate.

UNGER, JOHN R II
CHALLENGER

ID: H8WV02073

Office Sought: House
State: West Virginia
District: 02
Party: DEM (Democratic Party)

PRINCIPAL CAMPAIGN COMMITTEE: UNGER FOR CONGRESS
ID: C00436378

Search For:

Contributions Made by This Candidate's Committees

Committees Who Gave to This Candidate

These Contributions are taken from the reports of those committees giving contributions. As a result, they may cover different time periods depending on the reporting schedules of various committees.

Individuals Who Gave to This Candidate

TRY A: NEW QUERY

RETURN TO: FEC HOME PAGE



Presented by the Federal Election Commission

Contributions Made By This Candidate's Committees

UNGER, JOHN R II

CHALLENGER ID Number: H8WV02073

Election State: WV District: H

UNGER FOR CONGRESS

PRINCIPAL CAMPAIGN COMMITTEE OF THE CANDIDATE

Recipient's Name	Date	Amount	Image Number
CONTRIBUTIONS			
<u>ACTBLUE</u>	07/01/2008	586.00	<u>28992619874</u>
<u>WV STATE DEMOCRATIC EXECUTIVE COMMITTEE</u>	08/05/2011	1000.00	<u>11952747645</u>

TRY A: NEW QUERY

RETURN TO: FEC HOME PAGE



Presented by the Federal Election Commission

Contributions Made By This Candidate's Committees

UNGER, JOHN R II

CHALLENGER ID Number: H8WV02073

Election State: WV District: H

UNGER FOR CONGRESS

PRINCIPAL CAMPAIGN COMMITTEE OF THE CANDIDATE

Recipient's Name	Date	Amount	Image Number
CONTRIBUTIONS			
<u>ACTBLUE</u>	07/01/2008	586.00	<u>28992619874</u>
<u>WV STATE DEMOCRATIC EXECUTIVE COMMITTEE</u>	08/05/2011	1000.00	<u>11952747645</u>

TRY A: NEW QUERY

RETURN TO: FEC HOME PAGE

Presented by the Federal Election Commission

Committee ID: C00401224

ACTBLUE

P.O. BOX 382110
CAMBRIDGE, MA 02238

Treasurer Name:	HILL, ERIN
Committee Designation:	U (UNAUTHORIZED)
Committee Type:	QUALIFIED NON-PARTY

Search For:

[Contributions Received By This Candidate's Committees](#)

[Committees And Candidates Supported/Opposed](#)

[Individuals Who Gave To This Committee](#)

TRY A: [NEW QUERY](#)

RETURN TO: [FEC HOME PAGE](#)

Presented by the Federal Election Commission

Committee ID: C00162578

WV STATE DEMOCRATIC EXECUTIVE COMMITTEE

717 LEE STREET
SUITE 214
CHARLESTON, WV 25301

Treasurer Name:	CAMPBELL, TOM
Committee Designation:	U (UNAUTHORIZED)
Committee Type:	QUALIFIED PARTY

Search For:

[Contributions Received By This Candidate's Committees](#)

[Committees And Candidates Supported/Opposed](#)

[Individuals Who Gave To This Committee](#)

TRY A: [NEW QUERY](#)

RETURN TO: [FEC HOME PAGE](#)

**FEC
FORM 3****REPORT OF RECEIPTS
AND DISBURSEMENTS**
For An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (in full) TYPE OR PRINT ▼ Example: If typing, type over the lines.

12FE4M5

Unger for Congress

ADDRESS (number and street)

PO Box 2415



Check if different than previously reported. (ACC)

Martinsburg

WV

25402

2. FEC IDENTIFICATION NUMBER ▼

C

C00436378

CITY ▲

STATE ▲

ZIP CODE ▲

STATE ▼ DISTRICT

3. IS THIS REPORT



NEW (N)

OR



AMENDED (A)

WV

02

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:



April 15 Quarterly Report (Q1)



July 15 Quarterly Report (Q2)



October 15 Quarterly Report (Q3)



January 31 Year-End Report (YE)



Termination Report (TER)

(b) 12-Day PRE-Election Report for the:



Primary (12P)



General (12G)



Runoff (12R)



Convention (12C)



Special (12S)

Election on

M M / D D / Y Y Y Y

in the State of

(c) 30-Day POST-Election Report for the:



General (30G)



Runoff (30R)



Special (30S)

Election on

M M / D D / Y Y Y Y

in the State of

5. Covering Period

M M / D D / Y Y Y Y
07 / 01 / 2011

through

M M / D D / Y Y Y Y
09 / 30 / 2011

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer Ryan Unger

Signature of Treasurer Ryan Unger

[Electronically Filed]

Date

M M / D D / Y Y Y Y
10 / 17 / 2011

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

Office
Use
Only**FEC FORM 3**
(Revised 02/2003)

SUMMARY PAGE

FEC Form 3 (Revised 02/2003)

of Receipts and Disbursements

PAGE 2 / 7

Write or Type Committee Name

Unger for Congress

Report Covering the Period:

From:

M	M	/	D	D	/	Y	Y	Y	Y
0	7		0	1		2	0	1	1

To:

M	M	/	D	D	/	Y	Y	Y	Y
0	9		3	0		2	0	1	1

**COLUMN A
This Period****COLUMN B
Election Cycle-to-Date****6. Net Contributions (other than loans)**(a) Total Contributions
(other than loans) (from Line 11(e))

0.00

269817.30

(b) Total Contribution Refunds
(from Line 20(d))

0.00

138836.87

(c) Net Contributions (other than loans)
(subtract Line 6(b) from Line 6(a))

0.00

130980.43

7. Net Operating Expenditures(a) Total Operating Expenditures
(from Line 17)

0.00

75056.37

(b) Total Offsets to Operating
Expenditures (from Line 14)

0.00

0.00

(c) Net Operating Expenditures
(subtract Line 7(b) from Line 7(a))

0.00

75056.37

**8. Cash on Hand at Close of
Reporting Period (from Line 27)**

47294.88

**9. Debts and Obligations Owed TO
the Committee (Itemize all on
Schedule C and/or Schedule D)**

0.00

**10. Debts and Obligations Owed BY
the Committee (Itemize all on
Schedule C and/or Schedule D)**

0.00

For further information contact:

Federal Election Commission
999 E Street, NW
Washington, DC 20463

Toll Free 800-424-9530
Local 202-694-1100

POST-ELECTION DETAILED SUMMARY PAGE

Report of Receipts and Disbursements

FEC Form 3 (Revised 07/05)

PAGE 3 / 7

- If the candidate participated in the general election, use this form for the 30-day Post-General report.
- If the candidate did NOT participate in the general election, use this form for the Year-end report covering through December 31 of the election year (due on January 31).

This form is used in lieu of filling out Line Numbers 6 through 7 on Page 2 (Summary Page) and Pages 3 and 4 (the Detailed Summary Page) for the last report filed by a candidate during the current election cycle.

Write or Type Committee Name

Unger for Congress

Report Covering the Period: From: MM / DD / YYYY 07 / 01 / 2011 To: MM / DD / YYYY 09 / 30 / 2011

I. RECEIPTS

COLUMN A Total this Period	COLUMN B Election Cycle Total as of MM / DD / YYYY 11 / 04 / 2008 (date of general election)	COLUMN C Total for MM / DD / YYYY 11 / 05 / 2008 (date after general election) through MM / DD / YYYY 09 / 30 / 2011 (last day of reporting period)
11. CONTRIBUTIONS (other than loans) FROM:		
(a) Individuals/Persons Other than Political Committees		
(i) Itemized (use Schedule A)		
0.00	182130.00	0.00
(ii) Unitemized		
0.00	8647.30	0.00
(iii) Total of contributions from individuals		
0.00	190777.30	0.00
(b) Political Party Committees		
0.00	1000.00	0.00
(c) Other Political Committees		
0.00	78040.00	0.00

POST-ELECTION DETAILED SUMMARY PAGE

Report of Receipts and Disbursements

FEC Form 3 (Revised 1/01)

PAGE 4 / 7

COLUMN A Total this Period	COLUMN B Election Cycle Total as of * (date of general election) (* See page 5 for date)	COLUMN C Total for * (date after general election) through * (last day of reporting period) (* See page 5 for dates)
(d) The Candidate		
0.00	0.00	0.00
(e) TOTAL CONTRIBUTIONS (other than loans) (add Lines 11(a)(iii), (b), (c) and (d))		
0.00	269817.30	0.00
12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES		
0.00	1000.00	0.00
13. LOANS:		
(a) Made or Guaranteed by the Candidate		
0.00	0.00	0.00
(b) All Other Loans		
0.00	0.00	0.00
(c) TOTAL LOANS (add Lines 13(a) and (b))		
0.00	0.00	0.00
14. OFFSETS TO OPERATING EXPENDITURES (Refunds, rebates, etc.)		
0.00	0.00	0.00
15. OTHER RECEIPTS (Dividends, Interest, etc.)		
13.42	239.81	175.53
16. TOTAL RECEIPTS (add 11(e), 12, 13(c), 14 and 15)		
13.42	271057.11	175.53

POST-ELECTION DETAILED SUMMARY PAGE

Report of Receipts and Disbursements

FEC Form 3 (Revised 1/01)

PAGE 5 / 7

Write or Type Committee Name

Unger for Congress

Report Covering the Period: From: MM / DD / YYYY 07 / 01 / 2011 To: MM / DD / YYYY 09 / 30 / 2011

II. DISBURSEMENTS

COLUMN A Total this Period	COLUMN B Election Cycle Total as of * (date of general election) (* See page 5 for date)	COLUMN C Total for * (date after general election) through * (last day of reporting period) (* See page 5 for dates)
17. OPERATING EXPENDITURES		
0.00	75056.37	802.00
18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES		
1000.00	0.00	1000.00
19. LOAN REPAYMENTS:		
(a) Of Loans Made or Guaranteed by the Candidate		
0.00	0.00	0.00
(b) Of All Other Loans		
0.00	0.00	0.00
(c) TOTAL LOAN REPAYMENTS (add Lines 19(a) and 19(b))		
0.00	0.00	0.00
20. REFUNDS OF CONTRIBUTIONS TO:		
(a) Individuals/Persons Other Than Political Committees		
0.00	89440.87	0.00
(b) Political Party Committees		
0.00	28700.00	0.00

POST-ELECTION DETAILED SUMMARY PAGE

Report of Receipts and Disbursements

FEC Form 3 (Revised 1/01)

PAGE 6 / 7

COLUMN A Total this Period	COLUMN B Election Cycle Total as of * (date of general election) (* See page 5 for date)	COLUMN C Total for * (date after general election) through * (last day of reporting period) (* See page 5 for dates)
---	---	--

(c) Other Political Committees (such as PACs)

0.00

20696.00

0.00

(d) TOTAL CONTRIBUTION REFUNDS (add Lines 20(a), (b) and (c))

0.00

138836.87

0.00

21. OTHER DISBURSEMENTS

0.00

5351.52

2891.00

22. TOTAL DISBURSEMENTS (add Lines 17, 18, 19(c), 20(d) and 21)

1000.00

219244.76

4693.00

III. NET CONTRIBUTIONS (OTHER THAN LOANS)

(Note: Substitute in lieu of Line #6 of Summary Page for this report only; subtract Line 20(d) from Line 11(e))

0.00

130980.43

0.00

IV. NET OPERATING EXPENDITURES

(Note: Substitute in lieu of Line #7 of Summary Page for this report only; subtract Line 14 from Line 17)

0.00

75056.37

802.00

V. CASH SUMMARY

23. CASH ON HAND AT BEGINNING OF REPORTING PERIOD.....

24. TOTAL RECEIPTS THIS PERIOD (from Line 16).....

25. SUBTOTAL (add Line 23 and Line 24).....

26. TOTAL DISBURSEMENTS THIS PERIOD (from Line 22).....

27. CASH ON HAND AT CLOSE OF REPORTING PERIOD (subtract Line 26 from Line 25)

48281.46

13.42

48294.88

1000.00

47294.88

SCHEDULE B (FEC Form 3)
ITEMIZED DISBURSEMENTS

 Use separate schedule(s)
 for each category of the
 Detailed Summary Page

 FOR LINE NUMBER:
 (check only one)

PAGE 7 OF 7

<input type="checkbox"/> 17	<input checked="" type="checkbox"/> 18	<input type="checkbox"/> 19a	<input type="checkbox"/> 19b
<input type="checkbox"/> 20a	<input type="checkbox"/> 20b	<input type="checkbox"/> 20c	<input type="checkbox"/> 21

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)

Unger for Congress

Full Name (Last, First, Middle Initial)

A. West Virginia State Democratic Executive Committee

Mailing Address 717 Lee St., Suite 214

Date of Disbursement

M	M	/	D	D	/	Y	Y	Y	Y
0	8		0	5		2	0	1	1

Amount of Each Disbursement this Period

1	0	0	0	0	0	0	0	0	0
---	---	---	---	---	---	---	---	---	---

Transaction ID : SB18.5629

City	State	Zip Code
Charleston	WV	25301

 Purpose of Disbursement
 JFP Society

011

 Category/
 Type

Candidate Name

Unger for Congress

Office Sought:

☒ House
☐ Senate
☐ President

Disbursement For: 2008

☒ Primary ☐ General
☐ Other (specify)

State: WV

District: 02

Full Name (Last, First, Middle Initial)

B.

Mailing Address

Date of Disbursement

M	M	/	D	D	/	Y	Y	Y	Y

Amount of Each Disbursement this Period

--	--	--	--	--	--	--	--	--	--

City	State	Zip Code

Purpose of Disbursement

Candidate Name

 Category/
 Type

Office Sought:

☐ House
☐ Senate
☐ President

Disbursement For:

☐ Primary ☐ General
☐ Other (specify)

State:

District:

Full Name (Last, First, Middle Initial)

C.

Mailing Address

Date of Disbursement

M	M	/	D	D	/	Y	Y	Y	Y

Amount of Each Disbursement this Period

--	--	--	--	--	--	--	--	--	--

City	State	Zip Code

Purpose of Disbursement

Candidate Name

 Category/
 Type

Office Sought:

☐ House
☐ Senate
☐ President

Disbursement For:

☐ Primary ☐ General
☐ Other (specify)

State:

District:

SUBTOTAL of Disbursements This Page (optional).....

TOTAL This Period (last page this line number only).....

1000.00

1000.00

Presented by the Federal Election Commission

Committees Who Gave To This Candidate

UNGER, JOHN R II
THE CANDIDATE

Contributor's Name	Date	Amount	Image Number
PARTY COORDINATED EXPENDITURES			
DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE	01/11/2008	1000.00	<u>28991419167</u>

UNGER FOR CONGRESS
PRINCIPAL CAMPAIGN COMMITTEE OF THE CANDIDATE

Contributor's Name	Date	Amount	Image Number
CONTRIBUTIONS			
AMERICAN FEDERATION OF STATE COUNTY & MUNICIPAL EMPLOYEES P E O P L E	09/14/2007	2500.00	<u>27990851256</u>
AMERICAN FEDERATION OF STATE COUNTY & MUNICIPAL EMPLOYEES P E O P L E	12/14/2007	2500.00	<u>28990268122</u>
AMERICAN FEDERATION OF STATE COUNTY & MUNICIPAL EMPLOYEES P E O P L E	10/02/2008	- 1000.00	<u>28992924613</u>
AMERICAN FEDERATION OF TEACHERS, AFL-CIO COMMITTEE ON POLITICAL EDUCATION	12/06/2007	1000.00	<u>28930293944</u>
AMERICAN FEDERATION OF TEACHERS, AFL-CIO COMMITTEE ON POLITICAL EDUCATION	09/25/2008	- 1000.00	<u>28933558714</u>
AMERIPAC: THE FUND FOR A GREATER AMERICA	06/29/2007	5000.00	<u>27990327868</u>
AMERIPAC: THE FUND FOR A GREATER AMERICA	09/24/2007	2500.00	<u>27990842298</u>
AMERIPAC: THE FUND FOR A GREATER AMERICA	12/09/2007	2500.00	<u>28990247797</u>
AMERIPAC: THE FUND FOR A GREATER AMERICA	09/18/2008	- 5000.00	<u>28992684678</u>
AMERIPAC: THE FUND FOR A GREATER AMERICA	10/01/2008	- 2000.00	<u>28992924732</u>

<u>COMMUNICATIONS WORKERS OF AMERICA- COPE POLITICAL CONTRIBUTIONS COMMITTEE</u>	12/19/2007	5000.00	<u>28930293629</u>
<u>COMMUNICATIONS WORKERS OF AMERICA- COPE POLITICAL CONTRIBUTIONS COMMITTEE</u>	09/26/2008	-500.00	<u>28992688552</u>
<u>DAVIS, ARTUR G VIA COMMITTEE TO RE-ELECT ARTUR DAVIS TO CONGRESS, THE</u>	09/25/2007	2000.00	<u>27990764764</u>
<u>DEMOCRATS WIN SEATS (DWS PAC)</u>	09/24/2007	1000.00	<u>27931297437</u>
<u>DEMOCRATS WIN SEATS (DWS PAC)</u>	09/30/2008	-400.00	<u>28933578773</u>
<u>EMANUEL, RAHM VIA FRIENDS OF RAHM EMANUEL</u>	06/22/2007	2000.00	<u>27990271323</u>
<u>HONDA, MIKE VIA MIKE HONDA FOR CONGRESS</u>	09/26/2007	1000.00	<u>28990116910</u>
<u>HOYER, STENY HAMILTON VIA HOYER FOR CONGRESS</u>	12/21/2007	2000.00	<u>28990758673</u>
<u>HOYER, STENY HAMILTON VIA HOYER FOR CONGRESS</u>	12/21/2007	2000.00	<u>28990271970</u>
<u>INT'L. ASSOCIATION OF BRIDGE, STRUCTURAL, ORNAMENTAL & REINFORCING IRON WORKERS (IPAL)</u>	12/17/2007	1000.00	<u>28990061347</u>
<u>INT'L. ASSOCIATION OF BRIDGE, STRUCTURAL, ORNAMENTAL & REINFORCING IRON WORKERS (IPAL)</u>	09/30/2008	1000.00	<u>28933477553</u>
<u>INTERNATIONAL BROTHERHOOD OF BOILERMAKERS CAMPAIGN ASSISTANCE FUND</u>	12/12/2007	2500.00	<u>28990074174</u>
<u>INTERNATIONAL BROTHERHOOD OF BOILERMAKERS CAMPAIGN ASSISTANCE FUND</u>	09/25/2008	2500.00	<u>28992672047</u>
<u>JOBS, OPPORTUNITIES AND EDUCATION PAC (JOE-PAC)</u>	06/26/2007	2000.00	<u>27990216002</u>
<u>MAJORITY PAC</u>	09/28/2007	1000.00	<u>27931318200</u>
<u>NATIONAL COMMITTEE FOR AN EFFECTIVE CONGRESS</u>	11/20/2007	2500.00	<u>28930758954</u>
<u>NATIONAL ELEVATOR CONSTRUCTORS PAC/ INTN'L UNION OF ELEVATOR CONSTRUCTORS (NEC PAC)</u>	11/06/2007	500.00	<u>28930061608</u>
<u>NATIONAL ELEVATOR CONSTRUCTORS PAC/ INTN'L UNION OF ELEVATOR CONSTRUCTORS (NEC PAC)</u>	09/23/2008	-500.00	<u>28933457406</u>

NATIONAL LEADERSHIP PAC	09/28/2007	5000.00	28930323291
NATIONAL LEADERSHIP PAC	10/23/2008	2000.00	28934746912
OUR COMMON VALUES PAC	06/22/2007	2000.00	27990431929
OUR COMMON VALUES PAC	09/25/2007	2500.00	27990988904
OUR COMMON VALUES PAC	10/06/2008	1000.00	28992945840
OUR COMMON VALUES PAC	10/06/2008	-800.00	28992945840
PAC TO THE FUTURE	09/20/2007	5000.00	27990985265
PASTOR, ED L VIA PASTOR FOR ARIZONA	10/12/2007	1000.00	28930359438
PROGRESSIVE CHOICES PAC	09/26/2007	1000.00	27990746401
RAHALL, NICK JOE II VIA KEEP NICK RAHALL IN CONGRESS COMMITTEE	06/27/2007	1000.00	27990225832
RAHALL, NICK JOE II VIA KEEP NICK RAHALL IN CONGRESS COMMITTEE	08/13/2007	1000.00	27990792636
RANGEL, CHARLES B. VIA RANGEL FOR CONGRESS	09/28/2007	2000.00	27990790183
RANGEL, CHARLES B. VIA RANGEL FOR CONGRESS	09/28/2007	2000.00	27990790183
SHORE PAC	12/03/2007	1000.00	28990041916
UAW - V - CAP (UAW VOLUNTARY COMMUNITY ACTION PROGRAM)	12/10/2007	5000.00	28990224550
UAW - V - CAP (UAW VOLUNTARY COMMUNITY ACTION PROGRAM)	10/07/2008	5000.00	28992921812
UNITED MINE WORKERS OF AMERICA - COAL MINERS POLITICAL ACTION COMMITTEE	12/06/2007	1000.00	28930180286
UNITED STEEL WORKERS POLITICAL ACTION FUND	01/10/2008	5000.00	28990482656
VICTORY NOW PAC	09/30/2007	3000.00	27990989754
VICTORY NOW PAC	12/21/2007	2000.00	28930359905
WASSERMAN SCHULTZ, DEBBIE VIA DEBBIE WASSERMAN SCHULTZ FOR CONGRESS	09/27/2007	2000.00	28990467683
WASSERMAN SCHULTZ, DEBBIE VIA DEBBIE WASSERMAN SCHULTZ FOR CONGRESS	09/27/2007	2000.00	27990769780
IN-KIND CONTRIBUTIONS			

<u>DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE</u>	11/21/2007	428.00	<u>27991043768</u>
<u>DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE</u>	01/11/2008	4500.00	<u>28991419112</u>

RETURN TO: FEC HOME PAGE

Presented by the Federal Election Commission

Individuals Who Gave To: UNGER, JOHN R II

Sorted By Transaction Type Then Last Name

Committee(s) Used In This Query:

UNGER FOR CONGRESS

The query you have chosen matched 300 individual contributions.

Contributor	Address	Date	Amount	Employer/Occupation	Image Number
CONTRIBUTIONS FROM AN INDIVIDUAL					
<u>ADAMS, JOSEPH</u>	FAIRMONT WA 26554	10/03/2007	300.00	WV STATE POLICE/OFFICER	<u>28930274481</u>
<u>ADDISON, MAYRA V.</u>	WASHINGTON DC 20037	06/28/2007	500.00	N/A/HOUSEWIFE	<u>29992825403</u>
<u>ARBUCKLE, J. GORDON</u>	BOULDER CO 80302	09/25/2007	1000.00	PATTON BOGGS LLP/PARTNER	<u>27990800281</u>
<u>ARBUCKLE, J. GORDON</u>	BOULDER CO 80302	09/19/2007	1000.00	PATTON BOGGS LLP/PARTNER	<u>27990800280</u>
<u>ARBUCKLE, J.G.</u>	BOULDER CO 80302	06/28/2007	2300.00	PATTON BOGGS LLP/PARTNER	<u>29992825403</u>
<u>ARBUCKLE, MATTHEW B.</u>	BOULDER CO 80302	09/29/2007	500.00	EMS NET/ENVIRONMENTAL CONSULTANT	<u>27990800281</u>
<u>ARBUCKLE, MATTHEW B.</u>	BOULDER CO 80302	09/30/2007	200.00	EMS NET/ENVIRONMENTAL CONSULTANT	<u>27990800281</u>
<u>ARMADA, FRANK M.</u>	HURRICANE WV 25526	09/19/2007	1000.00	SELF EMPLOYED/ATTORNEY	<u>27990800282</u>
<u>ARMSTRONG, BRENT</u>	MORGANTOWN WV 26508	06/28/2007	500.00	EG&G/VICE PRESIDENT	<u>29992825403</u>
<u>BAACH, MARTIN</u>	CHEVY CHASE MD 20815	12/08/2007	1000.00	BAACH, ROBINSON & LEWIS/ATTORNEY	<u>28930274481</u>
<u>BAILEY, TC</u>	CHARLESTON WV 25311	04/01/2008	1000.00	SELF EMPLOYED/LAWYER	<u>28932256879</u>
<u>BANCROFT, DAVID B.</u>	TOWSON MD 21204	04/01/2008	250.00	SELF EMPLOYED/BUSINESSMAN	<u>28932256879</u>
<u>BARRETT, JOHN W.</u>	CHARLESTON WV 25314	06/21/2007	250.00	BAILEY & GLASSER LLP/LAWYER	<u>29992825404</u>
<u>BARRON, DORCAS E.</u>	HARPERS FERRY WV 25425	12/30/2007	1000.00	BEING RESEARCHED/BEING RESEARCHED	<u>28930274481</u>
<u>BASDEKIS, ATHANASIOS</u>	LEWISBURG WV 24901	04/01/2008	2000.00	SELF EMPLOYED/SALES	<u>28932256879</u>
<u>BAUER, DONALD L.</u>	FALLS CHURCH VA 22043	06/28/2007	500.00	SELF EMPLOYED/CONSULTANT - ENERGY	<u>29992825404</u>

<u>BERMAN, STANDFORD D.</u>	CHARLESTON WV 25302	09/25/2007	1000.00	RETIRED/RETIRED	<u>27990800282</u>
<u>BIAFORE, BELINDA</u>	FAIRMONT WV 26554	07/01/2008	1000.00	ANALLE OIL AND GAS CO/BUSINESSWOMA	<u>28992619798</u>
<u>BICKART, DAVID O.</u>	WASHINGTON DC 20008	04/01/2008	250.00	LEWIS CO/SALES	<u>28932256880</u>
<u>BOGGS, THOMAS HALE JR</u>	WASHINGTON DC 20037	06/28/2007	500.00	PATTON BOGGS LLP/PARTNER	<u>29992825404</u>
<u>BOSSART, GAIL E.</u>	MORGANTOWN WV 26501	07/01/2008	500.00	N/A/HOMEMAKER	<u>28992619798</u>
<u>BOSSART, GAIL E.</u>	MORGANTOWN WV 26501	07/02/2008	1000.00	N/A/HOMEMAKER	<u>28992619798</u>
<u>BOWEN, JAMES L.</u>	GROVELAND GA 34736	07/01/2008	500.00	N/A/RETIRED	<u>28992619799</u>
<u>BRANTMAYER, MICHAEL J.</u>	MORGANTOWN WV 26508	11/18/2007	250.00	EG&G/ES&H SUPPORT SERVICES MGR.	<u>28930274482</u>
<u>BURKE, MARTIN</u>	SHEPHERDSTOWN WV 25443	05/07/2008	200.00		<u>28932256880</u>
<u>BURKE, RAY G JR.</u>	HURRICANE WV 25526	06/19/2007	500.00	VARIETY RESTAURANT GROUP LLC/VICE	<u>29992825405</u>
<u>BUTLER, BILL</u>	INWOOD WV 25428	09/01/2007	1000.00	SELF EMPLOYED/GAME FARM	<u>27990800282</u>
<u>BUTLER, BILL</u>	INWOOD WV 25428	09/18/2007	500.00	SELF EMPLOYED/GAME FARM	<u>27990800283</u>
<u>CAPERTON, GASON</u>	SHEPHERDSTOWN WV 25443	06/28/2007	500.00	COLLEGE BOARD/PRESIDENT	<u>29992926995</u>
<u>CAPERTON, GASTON</u>	SHEPHERDSTOWN WV 25443	09/28/2007	500.00	COLLEGE BOARD/PRESIDENT	<u>27990800283</u>
<u>CAPIZZANO, JEFFREY A</u>	WASHINGTON DC 20003	04/01/2008	2300.00	SELF EMPLOYED/CONSULTANT	<u>28932256881</u>
<u>CAPIZZANO, JEFFREY A</u>	WASHINGTON DC 20003	04/01/2008	2300.00	SELF EMPLOYED/CONSULTANT	<u>28932256881</u>
<u>CAPRIOTTI, P. EUGENE</u>	HARPERS FERRY WV 25425	12/29/2007	2000.00	SELF EMPLOYED/BUSINESSMAN	<u>28930274482</u>
<u>CASEY, G. NICHOLAS JR.</u>	CHARLESTON WV 25304	12/20/2007	250.00	LEWIS GLASSER CASEY AND ROLLIN/LAW	<u>28930274482</u>
<u>CASEY, G. NICHOLAS JR.</u>	CHARLESTON WV 25304	07/01/2008	1000.00	SELF EMPLOYED/LAWYER	<u>28992619800</u>
<u>CLENDENING, DONALD W.</u>	CHARLES TOWN WV 25414	12/30/2007	1000.00	BEING RESEARCHED/BEING RESEARCHED	<u>28930274483</u>
<u>COLE, ANDREW M.</u>	POTOMAC MD 20854	12/14/2007	250.00	CB RICHARD ELLIS/VICE PRESIDENT	<u>28930274483</u>
<u>COOKMAN, DONALD P.</u>	ROMNEY WV 26757	11/05/2007	1000.00	COOKMAN LAW OFFICE/ATTORNEY	<u>28930274483</u>
<u>CORIA, KAREN</u>	HURRICANE WV 25526	09/19/2007	500.00	SELF EMPLOYED/SALES AND MARKETING	<u>27990800283</u>
<u>CRAIGO,</u>	WINFIELD	10/13/2007	1000.00	N/A/HOMEMAKER	<u>28930274484</u>

JOANNA	WV 25213				
CRAIGO, JOANNA	WINFIELD WV 25213	10/13/2007	1000.00	N/A/HOMEMAKER	28930274484
CRAIGO, OSHEL B.	NITRO WV 25143	07/19/2007	2300.00	SELF EMPLOYED/BUSINESSMAN	27990800284
DAVIES, BROOKE	SILVER SPRING MD 20906	12/14/2007	250.00	DAVIES CONSULTING INC./CHIEF OPERA	28930274484
DAVIES, CAROLE ANN	CHEVY CHASE MD 20815	04/01/2008	2300.00	TEACHING STRATEGIES/TEACHER	28932256881
DAVIES, CAROLE ANN	CHEVY CHASE MD 20815	04/01/2008	2300.00	TEACHING STRATEGIES/TEACHER	28932256882
DAVIES, CHRISTOPHER	CHEVY CHASE MD 20815	12/11/2007	500.00	WILMER CUTLER PICKERING HALE/ATTOR	28930274485
DAVIES, GRANT	CHEVY CHASE MD 20815	11/13/2007	2300.00	TEACHING STRATEGIES INC./CEO	28930274485
DAVIES, GRANT	CHEVY CHASE MD 20815	11/13/2007	2300.00	TEACHING STRATEGIES INC./CEO	28930274485
DAWSON, MARY FRANCES	RIVERSVILLE WV 26588	11/18/2007	250.00	EG&G/OPERATIONS MGR - HEALTH SVC	28930274486
DENEALT, JOSEPH T	CHARLESTON WV 25302	12/22/2007	300.00	HNTB/ENGINEER	28930274486
DODGE, DIANE T	WASHINGTON DC 20015	04/01/2008	1000.00	SELF EMPLOYED/MEDIA CONSULTANT	28932256882
DOUGLAS, FRANCIS C.	FREDERICKSBURG VA 22407	11/16/2007	250.00	S.M. STOLLER CORP/VP FOR BUSINESS	28930274486
DUDASH, ROBERT J.	HARPERS FERRY WV 25425	12/30/2007	1000.00	BEING RESEARCHED/BEING RESEARCHED	28930274487
FACEMIRE, DOUG	GASSAWAY WV 26624	09/11/2007	1000.00	FOODLAND/OWNER	27990800284
FAHEY, JENNIFER	CHARLESTON WV 25311	12/10/2007	2000.00	BAILEY AND GLASSER/ATTORNEY	28930274487
FAHEY, JENNIFER	CHARLESTON WV 25311	04/01/2008	2000.00	BAILEY AND GLASSER/ATTORNEY	28932256882
FERRETTI, JOSEPH R.	MARTINSBURG WV 25401	07/01/2008	1000.00	SELF EMPLOYED/LAWYER	28992619801
FIORI, PATRICIA A.	CHARLES TOWN WV 25414	09/24/2007	350.00	R P T AND M/ATTORNEY	27990800284
FITTRO, THOMAS	PARKERSBURG, WV 26103	12/28/2007	250.00	TRANS-ALLEGHENY ENTERPRISES/MANAGI	28930274487
GALLAHER, DONNA	FARMERSVILLE OH 45325	11/15/2007	250.00	S.M. STOLLER CORP/BUSINESS SERVICE	28930274488
GARCETTI, ERIC	LOS ANGELES CA 90026	05/17/2008	250.00		28932256883
GARRETT, JOHN C.	EASTON MD 21601	06/28/2007	500.00	PATTON BOGGS LLP/LAWYER	29992825405
GEE, SAMME L.	CHARLESTON WV 25311	07/01/2008	1000.00	JACKSON AND KELLY/ATTORNEY	28992619802
GEFFERT, GARRY G.	MARTINSBURG WV 25402	09/28/2007	500.00	SELF EMPLOYED/ATTORNEY	27990800285

GLASSER, BRIAN	CHARLESTON WV 25311	06/13/2007	250.00	BAILEY & GLASSER LLP/LAWYER	29992825405
GLASSER, BRIAN	CHARLESTON WV 25311	04/01/2008	2000.00	BAILEY & GLASSER LLP/LAWYER	28932256883
GLASSER, BRIAN	CHARLESTON WV 25311	04/01/2008	2000.00	BAILEY & GLASSER LLP/LAWYER	28932256883
GLASSER, LENA	CHARLESTON WV 25311	04/01/2008	2000.00	SELF EMPLOYED/HOMEMAKER	28932256884
GLASSER, LENA	CHARLESTON WV 25311	04/01/2008	2000.00	SELF EMPLOYED/HOMEMAKER	28932256884
GROVE, MATTHEW W.	MARTINSBURG WV 25401	12/14/2007	250.00	GORVE AND DALL'OLIO/ARCHITECT	28930274488
HADDAD, KAREN	CHARLESTON WV 25304	09/30/2007	2300.00	SELF EMPLOYED/AUTO DEALER	27990800285
HALLIGEN, KEVIN R.	WASHINGTON DC 20037	06/28/2007	1000.00	PATTON BOGGS LLP/ATTORNEY	29992825406
HAMMOCK, JON	FAIRMONT WV 26554	11/15/2007	250.00	KEYLOGIC SYSTEMS, INC./PRESIDENT	28930274488
HARBAUGH, ROBERT	HEDGESVILLE WV 25427	12/27/2007	1000.00	BEING RESEARCHED/BEING RESEARCHED	28930274489
HARTMAN, EDWARD P. JR.	CHARLESTON WV 25302	09/19/2007	250.00	AFSCME/REP	27990800286
HARTMAN, WILLIAM W.	FRANKLIN WV 26807	06/27/2007	500.00	GREENHORN AMERICA/TECHNICAL DIRECT	29992825406
HARVIT, E. WILLIAM	CHARLESTON WV 25314	09/28/2007	1000.00	SELF EMPLOYED/ATTORNEY	27990800286
HENDERSON, JUSTIN	FAIRMONT WV 26554	07/01/2008	1000.00	SELF EMPLOYED/LAWYER	28992619803
HERMAN, DALE S.	MARTINSBURG WV 25401	12/27/2007	250.00	PODIATRY ASSOCIATES/PODIATRIST	28930274489
HIGGINS, DAVID K.	CHARLESTON WV 25314	04/01/2008	300.00		28932256884
HOFSTETTER, DAVID	CHARLESTON WA 25304	10/04/2007	1000.00	INDIAN HEAD II/PRESIDENT	28930274489
HUTZLER, JAMES K. JR.	MARTINSBURG WV 25401	12/26/2007	1000.00	BEING RESEARCHED/BEING RESEARCHED	28930274490
ISAACS, GREGORY B.	CHARLESTON WV 25314	09/28/2007	500.00	CREWS AND ASSOCIATES/INVESTMENT BA	27990800286
JACKSON, KENNETH	MORGANTOWN WV 26505	11/18/2007	250.00	K-RAY SECURITY SVC INC./PRESIDENT	28930274490
JACKSON, LLOYD	HAMLIN WV 25523	07/31/2007	1000.00	JACKSON MANAGEMENT BRANCH/ATTORNEY	27990800287
JACKSON, LLOYD	HAMLIN WV 25523	12/26/2007	2000.00	JACKSON MGT. CO./ATTORNEY/BUSINESS	28930274490
JOHNSON, JOY D.	HEDGESVILLE WV 25427	08/11/2007	250.00	WOODS RESORT/MANAGER	27990800287
JOHNSON, RAY S.	HEDGESVILLE WV 25427	08/24/2007	1000.00	SELF EMPLOYED/CEO WOODS RESORT	27990800288
JONES, DAVID	WASHINGTON DC 20037	09/27/2007	500.00	CAPITOL COUNSEL LLC/PARTNER	27990800288

<u>KAPOURALES, SAM</u>	WILLIAMSON WV 25661	09/24/2007	500.00	RETIRED/RETIRED	<u>27990800288</u>
<u>KARLIN, ALLAN N.</u>	MORGANTOWN WV 26505	12/21/2007	1000.00	ALLAN N. KARLIN AND ASSOC./LAWYER	<u>28930274491</u>
<u>KAROS, GEORGE</u>	MARTINSBURG WV 25401	09/18/2007	1000.00	SELF EMPLOYED/PHARMACIST	<u>27990800289</u>
<u>KAROS, MARIA</u>	MARTINSBURG WV 25401	09/18/2007	500.00	N/A/HOMEMAKER	<u>27990800289</u>
<u>KEENER, HOWARD N.</u>	GASSAWAY WV 26624	09/15/2007	500.00	SELF EMPLOYED/COUNSELOR	<u>27990800289</u>
<u>KROESCHEL, JOSEPH W.</u>	VANDERBILT PA 15486	11/08/2007	250.00	EG&G/HR MANAGER	<u>28930274491</u>
<u>LANGE, THOMAS</u>	CHARLES TOWN WV 25414	09/29/2007	250.00	RETIRED/EDUCATOR	<u>27990800290</u>
<u>LAUGHLIN, GEORGE</u>	MARTINSBURG WV 25401	09/29/2007	300.00	RETIRED/RETIRED	<u>27990800290</u>
<u>LAVINE, DAVID A.</u>	SHEPHERDSTOWN WV 25443	06/28/2007	250.00	SELF EMPLOYED/ENTERTAINMENT AND E-	<u>29992825406</u>
<u>LEACH, GUY D.</u>	CHARLES TOWN WV 25414	12/30/2007	1000.00	BEING RESEARCHED/BEING RESEARCHED	<u>28930274491</u>
<u>LEWIS, DIANE M.</u>	MORGANTOWN WV 26501	11/09/2007	250.00	ACTION FACILITIES MGT. INC./PRESID	<u>28930274492</u>
<u>LEWIS, MARY</u>	MARTINSBURG WV 25401	07/01/2008	200.00	SELF EMPLOYED/HOMEMAKER	<u>28992619806</u>
<u>LEWIS, MARY</u>	MARTINSBURG WV 25401	07/01/2008	2300.00	SELF EMPLOYED/HOMEMAKER	<u>28992619806</u>
<u>LEWIS, ROGER</u>	MARTINSBURG WV 25401	07/01/2008	2300.00	RETIRED/BUSINESSMAN	<u>28992619807</u>
<u>LEWIS, ROGER</u>	MARTINSBURG WV 25401	07/01/2008	200.00	RETIRED/BUSINESSMAN	<u>28992619807</u>
<u>LONG, CAROLYN</u>	LITTLE BIRCH WV 26629	09/11/2007	1000.00	BRAXTON COUNTY SCHOOLS/SUPERINTEND	<u>27990800290</u>
<u>LONG, D.V.</u>	LITTLE BIRCH WV 26629	09/11/2007	1000.00	SELF EMPLOYED/GAS STATION	<u>27990800291</u>
<u>MARONEY, THOMAS P.</u>	CHARLESTON WV 25304	09/19/2007	1000.00	SELF EMPLOYED/ATTORNEY	<u>27990800291</u>
<u>MARSHALL, SAMUEL F.</u>	BERKELEY SPRINGS WV 25411	04/01/2008	500.00	SELF EMPLOYED/MARKETING	<u>28932256885</u>
<u>MARTIN, JUDITH</u>	MARTINSBURG WV 25401	09/30/2007	1000.00	SELF EMPLOYED/MARKETING	<u>27990800291</u>
<u>MASTERS, MARVIN W.</u>	CHARLESTON WV 25331	07/01/2008	2300.00	SELF EMPLOYED/ATTORNEY	<u>28992619809</u>
<u>MATHENEY, LARRY K.</u>	KENNA WV 25248	07/01/2008	500.00	TREASURER/TREASURER	<u>28992619809</u>
<u>MAXEY, JOHN R.</u>	HARPERS FERRY WV 25425	09/24/2007	500.00	SELF EMPLOYED/OWNER - DATA/COMPUTE	<u>27990800292</u>
<u>MAXEY, JOHN R.</u>	HARPERS FERRY WV 25425	06/28/2007	500.00	SELF EMPLOYED/OWNER - DATA/COMPUTE	<u>29992825407</u>
<u>MCCANNELL,</u>	WASHINGTON			SELF EMPLOYED/GOVERNMENT	

CHRISTOPHER	DC 20009	09/21/2007	250.00	RELATIONS	27990800292
MCCORMICK, JAMES H.	SUTTON WV 26601	09/15/2007	250.00	RETIRED/RETIRED	27990800292
MCGOVERN, RAYMOND L.	ARLINGTON VA 22205	09/30/2007	500.00	TELL THE WORD/PASTORAL ASSOCIATE	27990800293
MICHAEL, ANDREW	HEDGESVILLE WV 25427	07/01/2008	1000.00	THE WOODS RESORT/SALES	28992619811
MICKEY, WARREN G.	CHARLES TOWN WV 25414	07/01/2008	250.00	RETIRED/RETIRED	28992619811
MILLER, MIKE	LEESBURG VA 20178	09/21/2007	1000.00	SWAN INVESTORS/INVESTOR	27990800293
MOORE, LEE R. JR.	CHARLES TOWN WV 25414	12/29/2007	1000.00	SELF EMPLOYED/OPTOMETRIST	28930274492
MORQUECHO, JOSEPH	CHEVY CHASE MD 20815	04/01/2008	250.00	SELF EMPLOYED/SALES	28932256885
MORRIS, I.L.	GLENVILLE WV 26351	10/12/2007	1000.00	WACO OIL AND GAS CO. INC./PRESIDEN	28930274492
MORRIS, JAMES	GRANTSVILLE WV 26147	09/28/2007	2300.00	SELF EMPLOYED/OIL AND GAS SALES	27990800294
MOSER, JOSEPH E. II	MORGANTOWN WV 26508	12/19/2007	1000.00	BEING RESEARCHED/BEING RESEARCHED	28930274493
NAVARINI, SALLY JOHNSTON	MIDDLETOWN MD 21769	12/13/2007	250.00	WOODS RESORT/MANAGER	28930274493
NEFF, JEFFERSON O.	MIDDLETOWN OH 45044	11/17/2007	500.00	S.M. STOLLER CORP/VP	28930274493
NEFF, JEFFERSON O.	MIDDLETOWN OH 45044	07/01/2008	1800.00	S.M. STOLLER CORP/VP	28992619812
NEFF, JEFFERSON O.	MIDDLETOWN OH 45044	07/01/2008	500.00	S.M. STOLLER CORP/VP	28992619812
NESTER, JESSICA	MARTINSBURG WV 25405	09/04/2007	250.00	BOWLES RICE MCDAVID GRAFF/ATTORNEY	27990800294
NESTER, JOSHUA	MARTINSBURG WV 25405	09/04/2007	250.00	BOWLES RICE MCDAVID GRAFF/ATTORNEY	27990800295
OLIVE, SAM JR.	WILLIAMSON WV 25661	09/25/2007	1000.00	CVS/PHARMACIST	27990800295
PADEN, RICHARD	MARTINSBURG WV 25401	09/19/2007	1000.00	MERCEDES BENZ/SLAES	27990800296
PADEN, RICHARD	MARTINSBURG WV 25401	06/27/2007	500.00	MERCEDES BENZ/SLAES	29992825407
PALMERI, SHARON C.	BERKELEY SPRINGS WV 25411	04/01/2008	500.00	SELF EMPLOYED/HOMEMAKER	28932256885
PENNINGTON, C. B.	MARTINSBURG WV 25402	12/27/2007	2000.00	SELF EMPLOYED/AUTO INDUSTRY	28930274494
PENNINGTON, SHERRI J.	MARTINSBURG WV 25401	06/26/2007	2300.00	SELF EMPLOYED/FOOD/BEVERAGE INDUST	29992825407
PENNINGTON, SHERRI J.	MARTINSBURG WV 25401	06/26/2007	200.00	SELF EMPLOYED/FOOD/BEVERAGE INDUST	29992926998

PERDUE, KENNETH M.	FAIRMONT WV 26554	07/01/2008	500.00	AFL-CIO/PRESIDENT	28992619813
PERRY, CONNIE L.	BERKELEY SPRINGS WV 25411	10/07/2007	380.00	PERRY REALITY/BROKER	28930274494
PERRY, CONNIE L.	BERKELEY SPRINGS WV 25411	07/01/2008	1000.00	PERRY REALITY/BROKER	28992619814
PERRY, DAVID	OAK HILL WV 25901	09/29/2007	1000.00	FAYETTE COUNTY SCHOOLS/PRINCIPLE	27990800296
PORTER, AMELIE W.	WASHINGTON DC 20016	10/07/2007	250.00	BEING RESEARCHED/BEING RESEARCHED	28930274494
POWELL, JC	CHARLESTON WV 25301	04/15/2008	2000.00	SELF EMPLOYED/LAWYER	28932256886
RAMALEY, STEPHIE-ANNA	BADEN PA 15005	06/27/2007	1000.00	ALLEGHENY COUNTY, PA/ASST. DISTRIC	29992926998
RAMALEY, STEPHIE-ANNA	BADEN PA 15005	09/28/2007	1000.00	ALLEGHENY COUNTY PA/ASST. DISTRICT	27990800296
REALE, PHILIP	CHARLESTON WV 25311	07/01/2008	1000.00	SELF EMPLOYED/ATTORNEY	28992619814
REEDER, JAMES A.	MCLEAN VA 22101	09/24/2007	500.00	PATTON BOGGS/ATTORNEY	27990800297
REEDY, JAY L.	MORGANTOWN WV 26508	09/24/2007	1000.00	PROLOGIC INC./CEO CHAIRMAN	27990800297
REEDY, SUNEETHA	MORGANTOWN WV 26508	09/24/2007	1000.00	N/A/HOUSEWIFE	27990800297
RISSLER, PATRICIA	CHARLES TOWN WV 25414	12/31/2007	300.00	JOLLY/RISSLER, INC./PUBLIC RELATIO	28930274495
RISSLER, PATRICIA	CHARLES TOWN WV 25414	12/31/2007	700.00	JOLLY/RISSLER, INC./PUBLIC RELATIO	28930274495
RISSLER, PATRICIA F.	CHARLES TOWN WV 25414	09/20/2007	2000.00	JOLLY/RISSLER INC./PUBLIC RELATION	27990800298
ROGERS, JAMES	ARLINGTON WV 22202	12/17/2007	250.00	UNITED AUTO WORKERS/UAW REGION 8 C	28930274495
ROGERS, JAMES R.	PONTE VEDRA BEACH FL 32082	06/01/2008	1000.00		28932256886
ROMANO, MICHAEL J.	BRIDGEPORT WV 26330	04/15/2008	1000.00	SELF EMPLOYED/LAWYER	28932256886
ROSS, MICHAEL	COALTON WV 26257	09/28/2007	1000.00	SELF EMPLOYED/OIL/GAS INDUSTRY	27990800298
ROSS, MICHAEL	COALTON WV 26257	06/18/2007	1000.00	SELF EMPLOYED/OIL/GAS INDUSTRY	29992926999
ROUSE, JASON B.	WINCHESTER VA 22604	09/29/2007	2300.00	SELF EMPLOYED/BUSINESSMAN	27990800298
SANDERS, KIMBERLY L.	CHARLES TOWN WV 25414	12/30/2007	1000.00	BEING RESEARCHED/BEING RESEARCHED	28930274496
SANTA BARBARA, K.	MARTINSBURG WV 25401	12/20/2007	500.00	SANTA BARBARA LAW OFFICES/LAWYER	28930274496
SEGAL, SCOTT S.	CHARLESTON WV 25301	07/01/2008	1000.00	THE SEGAL LAW FIRM/LAWYER	28992619816

<u>SENCINDIVER, KIMBERLY ANNE</u>	KEARNEYSVILLE WV 25430	09/29/2007	250.00	FASLOC INC./REGISTERED NURSE	<u>27990800299</u>
<u>SHEELEY, SUSAN RISSLER</u>	CHARLES TOWN WV 25414	09/24/2007	500.00	RETIRED/RETIRED	<u>27990800299</u>
<u>SHELL, LENA J.</u>	BARBOURSVILLE WV 25504	09/28/2007	2300.00	GUYAN INTERNATIONAL/EXECUTIVE VP	<u>27990800299</u>
<u>SHELL, ROBERT L. JR.</u>	BARBOURSVILLE WV 25504	09/28/2007	2300.00	GUYAN INTERNATIONAL/CHAIRMAN/CEO	<u>27990800300</u>
<u>SHERMAN, ALBERT</u>	MORGANTOWN WV 26508	11/15/2007	250.00	RESEARCH AND DEV SOLUTIONS LLC/PRE	<u>28930274496</u>
<u>SHERMAN, ALBERT</u>	NEW YORK NY 10022	06/28/2007	500.00	RESEARCH & DEV. SOLUTIONS LLC/PRES	<u>29992825409</u>
<u>SNYDER, ERIC</u>	CHARLESTON WV 25311	04/15/2008	2300.00	SELF EMPLOYED/LAWYER	<u>28932256887</u>
<u>SOSTARIC, STJEPAN</u>	WASHINGTON DC 20003	06/28/2007	1000.00	VISTA CONTRACTING INC./GENERAL CON	<u>29992825409</u>
<u>SPARACHANE, ANTHONY JR</u>	WHEELING WV 26003	12/26/2007	1000.00	BEING RESEARCHED/BEING RESEARCHED	<u>28930274497</u>
<u>STEMPLE, WILLIAM F.</u>	ARNOLDSBURG WV 25234	09/28/2007	1000.00	WV LEGISLATURE/STATE DELEGATE	<u>27990800300</u>
<u>STOLLINGS, RON D.</u>	MADISON WV 25130	07/01/2008	300.00	SELF EMPLOYED/SALES	<u>28992619816</u>
<u>STOWERS, LYLE C.</u>	BARBOURSVILLE WV 25504	07/01/2008	2300.00	SELF EMPLOYED/OWNER - STOWERS TRUC	<u>28992619817</u>
<u>TORISEVA, TERESA</u>	WHEELING WA 26003	04/15/2008	1000.00	SELF EMPLOYED/HOMEMAKER	<u>28932256887</u>
<u>TRUMP, MARY LOU</u>	BERKELEY SPRINGS WV 25411	12/15/2007	350.00	RETIRED/RETIRED	<u>28930274497</u>
<u>UNGER, JENNIFER</u>	MARTINSBURG WV 25404	05/02/2008	250.00	BERKELEY COUNTY SCHOOLS/TEACHER	<u>28932256887</u>
<u>UNGER, RYAN</u>	MARTINSBURG WV 25404	07/09/2007	500.00	MANITOWOC CRANE/SAFETY AND HEALTH	<u>27990800300</u>
<u>VAN HORN, PAM</u>	CHARLESTON WV 25311	04/15/2008	250.00	WV DEMOCRATIC PARTY/CONSULTANT	<u>28932256888</u>
<u>WADDELL, HARRY P.</u>	MARTINSBURG WV 25401	09/27/2007	2300.00	LAW OFFICE OF HARRY WADDELL/ATTORN	<u>27990800301</u>
<u>WARD, MATTHEW W</u>	CHARLES TOWN WV 25414	09/24/2007	1000.00	THE FERGUSON GROUP LLC/ATTORNEY	<u>27990800301</u>
<u>WARNER, ROBERT B.</u>	CHARLESTON WV 25333	12/27/2007	500.00	WARNER LAW OFFICE/LAWYER	<u>28930274498</u>
<u>WATSON, WILLIAM E.</u>	WELLSBURG WV 26070	09/19/2007	1000.00	WATSON AND ASSOCIATES/ATTORNEY	<u>27990800301</u>
<u>WEAVER, THOMAS</u>	WESTOVER WV 26501	11/13/2007	250.00	EG&G/RESOURCE MANAGER	<u>28930274498</u>
<u>WEINTRAUB, MARC</u>	CHARLESTON WV 25311	04/15/2008	2000.00	BAILEY AND GLASSER/LAWYER	<u>28932256888</u>
<u>WESSON, DEBBIE</u>	MARTINSBURG WV 25401	09/17/2007	2300.00	SELF EMPLOYED/MARKETING	<u>27990800302</u>

WESSON, LEE	SPRINGFIELD WV 26763	09/29/2007	2300.00	SELF EMPLOYEED/ENTERTAINMENT INDUS	27990800302
WHETZEL, VALERIE	MORGANTOWN WV 26501	11/13/2007	250.00	EG&G TECH SVC./BUSINESS MANAGER	28930274498
WHITE, STEVEN F.	CHARLESTON WV 25302	09/19/2007	2300.00	SELF EMPLOYED/ATTORNEY	27990800302
WOTRING, TERRI	BRUCETON MILLS WV 26525	11/18/2007	500.00	HERITAGE ACRES, LLC/MANAGER	28930274499
WREN, THOMAS	MORGANTOWN WV 26505	11/08/2007	500.00	EG&G/VP MARKETING AND ORGANIZATION	28930274499
WYSONG, C. LOCKE JR	CHARLES TOWN WV 25414	12/29/2007	2000.00	STATE OF WV/DELEGATE	28930274499
CONTRIBUTION REFUND TO AN INDIVIDUAL					
ARBUCKLE, J.G.	BOULDER CO 80302	07/15/2008	2000.00		28992619825
ARBUCKLE, J.G.	BOULDER CO 80302	09/15/2008	-920.00		28992619825
ARBUCKLE, MATTHEW B.	BOULDER CO 80302	09/15/2008	-80.00		28992619825
ARMADA, FRANK	HURRICANE WV 25526	09/15/2008	-400.00		28992619826
BAACH, MARTIN	CHEVY CHASE MD 20815	09/15/2008	-400.00		28992619826
BAILEY, TC	CHARLESTON WV 25311	09/15/2008	-400.00		28992619826
BARRON, DORCAS E.	HARPERS FERRY WV 25425	09/15/2008	-400.00		28992619827
BASDEKIS, ATHANASIOS	LEWISBURG WV 24901	09/15/2008	-800.00		28992619827
BERMAN, STANFORD	CHARLESTON WV 25302	09/15/2008	-400.00		28992619827
BIAFORE, BELINDA	FAIRMONT WV 26554	09/15/2008	-400.00		28992619828
BOSSART, GAIL E.	MORGANTOWN WV 26501	09/15/2008	-400.00		28992619828
BUTLER, BILL	INWOOD WV 25428	09/15/2008	-200.00		28992619829
BUTLER, BILL	INWOOD WV 25428	09/15/2008	-400.00		28992619828
CAPIZZANO, JEFFREY A	WASHINGTON DC 20003	07/15/2008	2300.00		28992619829
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CAPRIOTTL P, EUGENE	HARPERS FERRY WV 25425	09/15/2008	-800.00		28992619830
CASEY, G. NICHOLAS JR.	CHARLESTON WV 25304	09/15/2008	-100.00		28992619830
CASEY, G. NICHOLAS JR.	CHARLESTON WV 25304	09/15/2008	-400.00		28992619830

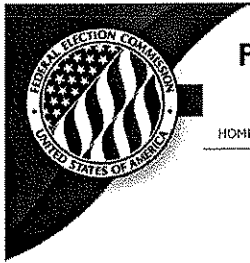
CLENDENING, DONALD W.	CHARLES TOWN WV 25414	09/15/2008	-400.00		28992619831
COOKMAN, DONALD P.	ROMNEY WV 26757	09/15/2008	-400.00		28992619831
CRAIGO, JOANNA	WINFIELD WV 25213	09/15/2008	-400.00		28992619831
CRAIGO, JOANNA	WINFIELD WV 25213	09/15/2008	-400.00		28992619832
CRAIGO, OSHEL	NITRO WV 25143	09/15/2008	-920.00		28992619832
DAVIES, CAROLE ANN	CHEVY CHASE MD 20815	09/15/2008	-920.00		28992619833
DAVIES, CAROLE ANN	CHEVY CHASE MD 20815	07/15/2008	- 2300.00		28992619832
DAVIES, GRANT	CHEVY CHASE MD 20815	07/15/2008	- 2300.00		28992619833
DAVIES, GRANT	CHEVY CHASE MD 20815	09/15/2008	-920.00		28992619833
DODGE, DIANE T	WASHINGTON DC 20015	09/15/2008	-400.00		28992619834
DUDASH, ROBERT J.	HARPERS FERRY WV 25425	09/15/2008	-400.00		28992619834
FACEMIRE, DOUG	GASSAWAY WV 26624	09/15/2008	-400.00		28992619834
FAHEY, JENNIFER	CHARLESTON WV 25311	09/15/2008	- 1600.00		28992619835
FERRETTI, JOSEPH R.	MARTINSBURG WV 25401	09/15/2008	-400.00		28992619835
GEE, SAMME L.	CHARLESTON WV 25311	09/15/2008	-400.00		28992619835
GLASSER, BRIAN	CHARLESTON WV 25311	07/15/2008	- 2000.00		28992619836
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GLASSER, BRIAN	CHARLESTON WV 25311	09/15/2008	-100.00		28992619836
GLASSER, LENA	CHARLESTON WV 25311	09/15/2008	-800.00		28992619837
GLASSER, LENA	CHARLESTON WV 25311	07/15/2008	- 2000.00		28992619837
HADDAD, KAREN	CHARLESTON WV 25304	09/15/2008	-920.00		28992619837
HALLIGEN, KEVIN R.	WASHINGTON DC 20037	07/06/2007	- 1000.00		27990800321
HARBAUGH, ROBERT	HEDGESVILLE WV 25427	09/15/2008	-400.00		28992619838
HARVIT, E. WILLIAM	CHARLESTON WV 25314	09/15/2008	-400.00		28992619838
HENDERSON, JUSTIN	FAIRMONT WV 26554	09/15/2008	-400.00		28992619838

<u>HOFSTETTER, DAVID</u>	CHARLESTON WA 25304	09/15/2008	-400.00		<u>28992619839</u>
<u>HUTZLER, JAMES K. JR.</u>	MARTINSBURG WV 25401	09/15/2008	-400.00		<u>28992619839</u>
<u>JACKSON, LLOYD</u>	HAMLIN WV 25523	09/15/2008	-400.00		<u>28992619839</u>
<u>JACKSON, LLOYD</u>	HAMLIN WV 25523	09/15/2008	2000.00		<u>28992619840</u>
<u>JOHNSTON, RAY S.</u>	HEDGESVILLE WV 25427	09/15/2008	-400.00		<u>28992619840</u>
<u>KARLIN, ALLAN N</u>	MORGANTOWN WV 26505	09/15/2008	-400.00		<u>28992619840</u>
<u>KAROS, GEORGE K.</u>	MARTINSBURG WV 25401	09/15/2008	-400.00		<u>28992619841</u>
<u>KAROS, GEORGE K.</u>	MARTINSBURG WV 25401	09/15/2008	-200.00		<u>28992619841</u>
<u>LEACH, GUY D.</u>	CHARLES TOWN WV 25414	09/15/2008	-400.00		<u>28992619841</u>
<u>LEWIS, MARY</u>	MARTINSBURG WV 25401	09/15/2008	-920.00		<u>28992619842</u>
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<u>LEWIS, ROGER</u>	MARTINSBURG WV 25401	09/15/2008	-200.00		<u>28992619843</u>
<u>LEWIS, ROGER</u>	MARTINSBURG WV 25401	09/15/2008	-920.00		<u>28992619842</u>
<u>LONG, CAROLYN</u>	LITTLE BIRCH WV 26629	09/15/2008	-400.00		<u>28992619843</u>
<u>LONG, D.V.</u>	LITTLE BIRCH WV 26629	09/15/2008	-400.00		<u>28992619843</u>
<u>MARONEY, THOMAS</u>	CHARLESTON WV 25304	09/15/2008	-400.00		<u>28992619844</u>
<u>MARTIN, JUDITH G.</u>	MARTINSBURG WV 25401	09/15/2008	-400.00		<u>28992619844</u>
<u>MASTERS, MARVIN W.</u>	CHARLESTON WV 25331	09/15/2008	-920.00		<u>28992619844</u>
<u>MAXEY, JOHN R.</u>	HARPERS FERRY WV 25425	09/15/2008	-400.00		<u>28992619845</u>
<u>MICHAEL, ANDREW</u>	HEDGESVILLE WV 25427	09/15/2008	-400.00		<u>28992619845</u>
<u>MILLER, MIKE</u>	LEESBURG VA 20178	09/15/2008	-400.00		<u>28992619845</u>
<u>MOORE, LEE R. JR.</u>	CHARLES TOWN WV 25414	09/15/2008	-400.00		<u>28992619846</u>
<u>MORRIS, I.L.</u>	GLENVILLE WV 26351	09/15/2008	-400.00		<u>28992619846</u>
<u>MORRIS, JAMES</u>	GRANTSVILLE WV 26147	09/15/2008	-920.00		<u>28992619846</u>
<u>MOSER, JOSEPH E. II</u>	MORGANTOWN WV 26508	09/15/2008	-400.00		<u>28992619847</u>

NEFF, JEFFERSON O.	MIDDLETOWN OH 45044	09/15/2008	- 1120.00	28992619847
OLIVE, SAM JR	WILLIAMSON WV 25661	09/15/2008	-400.00	28992619847
OLIVERIO, STEVE	SCOTTSDALE AZ 85250	09/15/2008	-400.00	28992619848
PADEN, RICHARD	MARTINSBURG WV 25401	09/15/2008	-600.00	28992619848
PENNINGTON, C. B.	MARTINSBURG WV 25402	09/15/2008	-800.00	28992619848
PENNINGTON, SHERRI J.	MARTINSBURG WV 25401	09/15/2008	-920.00	28992619849
PERDUE 2004,	WV	09/15/2008	-400.00	28992619849
PERRY, CONNIE L.	BERKELEY SPRINGS WV 25411	09/15/2008	-552.00	28992619849
PERRY, DAVID	OAK HILL WV 25901	09/15/2008	-400.00	28992619850
PORTER, AMELIE W.	WASHINGTON DC 20016	09/15/2008	-100.00	28992619850
POWELL, JC	CHARLESTON WV 25301	09/15/2008	-800.00	28992619850
RAMALEY, STEPHIE-ANNA	BADEN PA 15005	09/15/2008	-400.00	28992619851
REALE, PHILIP	CHARLESTON WV 25311	09/15/2008	-400.00	28992619851
REDDY, JAY L.	MORGANTOWN WV 26508	09/15/2008	-400.00	28992619851
REDDY, SUNEETHA	MORGANTOWN WV 26508	09/15/2008	-400.00	28992619852
RISSLER, PATRICIA	CHARLES TOWN WV 25414	09/15/2008	- 1200.00	28992619852
ROGERS, JAMES R.	PONTE VEDRA BEACH FL 32082	09/15/2008	-400.00	28992619852
ROMANO, MICHAEL J.	BRIDGEPORT WV 26330	09/15/2008	-400.00	28992619853
ROSS, MICHAEL	COALTON WV 26257	09/15/2008	-600.00	28992619853
ROUSE, JASON B.	WINCHESTER VA 22604	09/15/2008	-920.00	28992619853
SANDERS, KIMBERLY L.	CHARLES TOWN WV 25414	09/15/2008	-400.00	28992619854
SEGAL, SCOTT S.	CHARLESTON WV 25301	07/15/2008	- 2300.00	28992619854
SEGAL, SCOTT S.	CHARLESTON WV 25301	09/15/2008	-920.00	28992619854
SENCINDIVER, KIMBERLY ANNE	KEARNEYSVILLE WV 25430	09/15/2008	-160.00	28992619855

<u>SHELL, LENA J.</u>	BARBOURSVILLE WV 25504	09/15/2008	-920.00		<u>28992619855</u>
<u>SHELL, ROBERT L. JR.</u>	BARBOURSVILLE WV 25504	09/15/2008	-920.00		<u>28992619855</u>
<u>SHERMAN, ALBERT</u>	NEW YORK NY 10022	09/15/2008	-300.00		<u>28992619856</u>
<u>SNYDER, ERIC</u>	CHARLESTON WV 25311	09/15/2008	-920.00		<u>28992619856</u>
<u>SOSTARIC, STJEPAN</u>	WASHINGTON DC 20003	09/15/2008	-400.00		<u>28992619856</u>
<u>SPARACHANE, ANTHONY JR</u>	WHEELING WV 26003	09/15/2008	-400.00		<u>28992619857</u>
<u>STEMPLE, WILLIAM F.</u>	ARNOLDSBURG WV 25234	09/15/2008	-400.00		<u>28992619857</u>
<u>STOWERS, LYLE C.</u>	BARBOURSVILLE WV 25504	09/15/2008	-920.00		<u>28992619857</u>
<u>TORISEVA, TERESA</u>	WHEELING WA 26003	09/15/2008	-400.00		<u>28992619858</u>
<u>WADDELL, HARRY P.</u>	MARTINSBURG WV 25401	09/15/2008	-920.00		<u>28992619858</u>
<u>WARD, MATTHEW W.</u>	CHARLESTON WV 25414	09/15/2008	-400.00		<u>28992619858</u>
<u>WATSON, WILLIAM E.</u>	WELLSBURG WV 26070	09/15/2008	-400.00		<u>28992619859</u>
<u>WEINTRAUB, MARC</u>	CHARLESTON WV 25311	09/15/2008	-800.00		<u>28992619859</u>
<u>WESSON, DEBORAH</u>	SPRINGFIELD WV 26763	09/15/2008	-920.00		<u>28992619859</u>
<u>WESSON, LEE</u>	SPRINGFIELD WV 26763	09/15/2008	-920.00		<u>28992619860</u>
<u>WHITE, STEVEN</u>	CHARLESTON WV 25302	09/15/2008	-920.00		<u>28992619860</u>
<u>WYSONG, C. LOCKE JR</u>	CHARLES TOWN WV 25414	09/15/2008	-800.00		<u>28992619860</u>

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Abbreviations

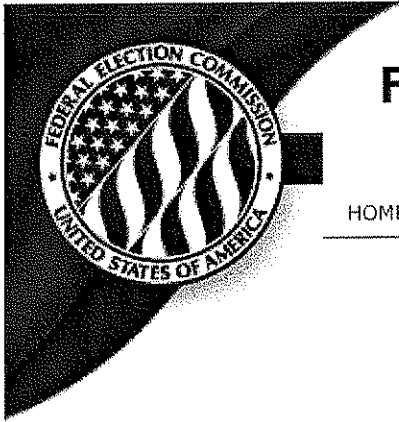
Committee ID	Committee Name	City	State	Party	Designation	Type	Candidate State	Candidate Office
C00197327	AMERICANS AGAINST WORLD HUNGER (A W	WASHINGTON	DC		U	N		
H8WV02073	UNGER, JOHN R II	MARTINSBUR	WV	DEM	0	8	WV	House
C00436378	UNGER FOR CONGRESS	MARTINSBUR	WV	DEM	P	H	WV	House
H2MA01129	BASKIN, LISA UNGER	LEEDS	MA	DEM	9	1	MA	House

4 Committees matched criteria

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PARTY DESIGNATION

PARTY	DESCRIPTION
AIP	AMERICAN INDEPENDENT PARTY
AMP	AMERICAN PARTY
CIT	CITIZENS
CRV	CONSERVATIVE PARTY
CST	CONSTITUTIONAL
DEM	DEMOCRAT PARTY
DFL	DEMOCRAT FARM LABOR
GRE	GREEN PARTY
IND	INDEPENDENT
LAB	LABOR
LBR	LABOR PARTY
LIB	LIBERTARIAN
NLP	NATURAL LAW PARTY
NNE	NONE
OTH	OTHER
REF	REFORM PARTY
REP	REPUBLICAN PARTY
RTL	RIGHT TO LIFE
SWP	SOCIALIST WORKERS PARTY
TX	TAXPAYERS
UNK	UNKNOWN

COMMITTEE DESIGNATION

DESIG	DESCRIPTION
A	AUTHORIZED BY A CANDIDATE
D	LEADERSHIP PAC
J	JOINT FUND RAISER
P	PRINCIPAL CAMPAIGN COMMITTEE OF A CANDIDATE
U	UNAUTHORIZED

COMMITTEE TYPE DESIGNATION

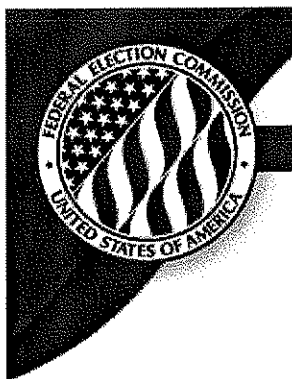
TYPE	DESCRIPTION
C	COMMUNICATION COST
D	DELEGATE
H	HOUSE
I	INDEPENDENT EXPENDITURE(PERSON OR GROUP, NOT A COMMITTEE)
N	NON-PARTY NON-QUALIFIED
P	PRESIDENTIAL
Q	QUALIFIED NON-PARTY(SEE 2USC SECT.441(A) (4))
S	SENATE
X	NON-QUALIFIED PARTY
Y	QUALIFIED PARTY(SEE 2USC SECT.441(A)(4))
Z	NATIONAL PARTY ORGANIZATION. NON FED ACCT.

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Reports Image Index for Candidate ID: H8WV02073


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UNGER, JOHN R II CHALLENGER

Office Sought: House
Election Year: 2008
State: West Virginia
District: 02
Party: DEM (Democratic Party)

PRINCIPAL CAMPAIGN COMMITTEE:
UNGER FOR CONGRESS ID: C00436378

Candidate listings may appear here as a result of draft committees or independent expenditure committees registering with the FEC. If no official documents of an authorized committee appear below, the individual identified here has taken no action to become a candidate.

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Year 2007					
Document Filed	Amended	Filed On	Pages	Display Report Page By Page	Display Full Report
STATEMENT OF CANDIDACY		07/03/2007	2	<u>27039461772</u>	<u>PDF</u>

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FEC FORM 2

STATEMENT OF CANDIDACY

1. (a) Name of Candidate (in full) John R. Unger II		2. Identification Number
(b) Address (number and street) P.O. Box 2415		
(c) City, State, and ZIP Code Martinsburg, WV 25402		3. Is This Statement <input checked="" type="checkbox"/> New (N) OR <input type="checkbox"/> Amended (A)
4. Party Affiliation Democrat	5. Office Sought House	6. State & District of Candidate WV - Second Congressional District

DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

7. I hereby designate the following named political committee as my Principal Campaign Committee for the **2008** election(s).
(year of election)

NOTE: This designation should be filed with the appropriate office listed in the instructions.

(a) Name of Committee (in full) Unger for Congress
(b) Address (number and street) P.O. Box 11530
(c) City, State, and ZIP Code Charleston, WV 25339

DESIGNATION OF OTHER AUTHORIZED COMMITTEES

(Including Joint Fundraising Representatives)

8. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

NOTE: This designation should be filed with the principal campaign committee.

(a) Name of Committee (in full)
(b) Address (number and street)
(c) City, State, and ZIP Code

DECLARATION OF INTENT TO EXPEND PERSONAL FUNDS (House or Senate Only)

9. I intend to expend personal funds exceeding the threshold amount (see 11 C.F.R. 400.8) by

SA **0.00** for the primary election, and

SB **0.00** for the general election.

If you do not intend to expend personal funds exceeding the threshold amount for either election, you must enter "0.00" for each.

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

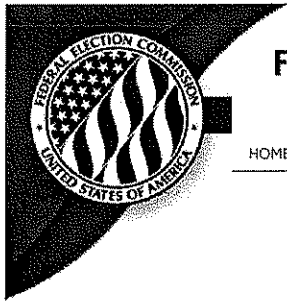
Signature of Candidate John R. Unger II	Date 7/2/07
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NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to penalties of 2 U.S.C. §437g.

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Delivery Confirmation™ or Signature Confirmation™ Label <input type="checkbox"/>	
<input type="checkbox"/> USPS Express Mail	Postmarked
<input type="checkbox"/> Postmark Illegible	
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<input type="checkbox"/> Overnight Delivery Service (Specify):	Shipping Date
Next Business Day Delivery <input type="checkbox"/>	
<input type="checkbox"/> Received from House Records & Registration Office	Date of Receipt
<input type="checkbox"/> Received from Senate Public Records Office	Date of Receipt
<input type="checkbox"/> Received from Electronic Filing Office	Date of Receipt
<input checked="" type="checkbox"/> Other (Specify): <i>E-mail</i>	Date of Receipt or Postmarked <i>7/3/07</i>
<i>[Signature]</i> PREPARER (3/2005)	<i>7/5/07</i> DATE PREPARED

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Reports Image Index for Committee ID: C00436378[FEC HOME](#) [NEW SEARCH](#) [NEW ADVANCED SEARCH](#)**UNGER FOR CONGRESS**P.O. BOX 2415
MARTINSBURG, WV 25402**Treasurer Name:** KIMBERLY ANNE SENCINDIVER
Committee Designation: P (PRINCIPAL CAMPAIGN COMMITTEE OF A CANDIDATE)
Committee Type: H (HOUSE)
Candidate State: WV (West Virginia)**CANDIDATE:**
UNGER, JOHN R II ID: H8WV02073

Candidate listings may appear here as a result of draft committees or independent expenditure committees registering with the FEC. If no official documents of an authorized committee appear below, the individual identified here has taken no action to become a candidate.

Click here if you have a problem viewing the images. NOTE: Images are best viewed using the latest version of Adobe Reader.							
Year 2011							
Document Filed	Amended	Filed On	From Date	End Date	Pages	Display Report Page By Page	Display Full Report
MISCELLANEOUS REPORT TO FEC		10/26/2011			1	11971769721	PDF
APRIL QUARTERLY		04/03/2011	01/01/2011	03/31/2011	4	11930586182	PDF
JULY QUARTERLY		07/15/2011	04/01/2011	06/30/2011	4	11931931645	PDF
OCTOBER QUARTERLY		10/21/2011	07/01/2011	09/30/2011	7	11952747639	PDF
Year 2010							
Document Filed	Amended	Filed On	From Date	End Date	Pages	Display Report Page By Page	Display Full Report
APRIL QUARTERLY		04/14/2010	01/01/2010	03/31/2010	4	10990534561	PDF
JULY QUARTERLY		07/09/2010	04/01/2010	06/30/2010	4	10930883560	PDF
OCTOBER QUARTERLY		10/17/2010	07/01/2010	09/30/2010	5	10991427389	PDF
YEAR-END		01/30/2011	10/01/2010	12/31/2010	4	11930247768	PDF
Year 2009							
Document Filed	Amended	Filed On	From Date	End Date	Pages	Display Report Page By Page	Display Full Report
MISCELLANEOUS REPORT TO FEC		07/17/2009			6	29030130577	PDF
APRIL QUARTERLY		04/13/2009	01/01/2009	03/31/2009	5	29933488654	PDF
APRIL QUARTERLY	AMEND	09/18/2009	01/01/2009	03/31/2009	5	29992826058	PDF
JULY QUARTERLY		07/14/2009	04/01/2009	06/30/2009	5	29992435727	PDF
JULY QUARTERLY	AMEND	09/18/2009	04/01/2009	06/30/2009	5	29934542818	PDF
OCTOBER							

QUARTERLY		10/14/2009	07/01/2009	09/30/2009	4	29992927002	PDF
REQUEST FOR ADDITIONAL INFORMATION		01/12/2010	07/01/2009	09/30/2009	3	10030212327	PDF
YEAR-END		01/23/2010	10/01/2009	12/31/2009	4	10990131759	PDF
Year 2008							
Document Filed	Amended	Filed On	From Date	End Date	Pages	Display Report Page By Page	Display Full Report
APRIL QUARTERLY		04/15/2008	01/01/2008	03/31/2008	10	28931157404	PDF
APRIL QUARTERLY	AMEND	09/18/2009	01/01/2008	03/31/2008	10	29992826031	PDF
JULY QUARTERLY		07/16/2008	04/01/2008	06/30/2008	20	28932256875	PDF
JULY QUARTERLY	AMEND	09/18/2009	04/01/2008	06/30/2008	20	29934542713	PDF
REQUEST FOR ADDITIONAL INFORMATION		02/26/2009	04/01/2008	06/30/2008	5	28039892390	PDF
OCTOBER QUARTERLY		10/16/2008	07/01/2008	09/30/2008	82	28992619793	PDF
OCTOBER QUARTERLY	AMEND	09/18/2009	07/01/2008	09/30/2008	67	29934542733	PDF
REQUEST FOR ADDITIONAL INFORMATION		07/17/2009	10/01/2008	12/31/2008	4	29030100534	PDF
YEAR-END		02/01/2009	10/01/2008	12/31/2008	6	29932131623	PDF
YEAR-END	AMEND	09/18/2009	10/01/2008	12/31/2008	6	29992826052	PDF
Year 2007							
Document Filed	Amended	Filed On	From Date	End Date	Pages	Display Report Page By Page	Display Full Report
STATEMENT OF ORGANIZATION		07/03/2007			6	27039461765	PDF
MISCELLANEOUS REPORT TO FEC		07/16/2007			11	27039472341	PDF
MISCELLANEOUS REPORT TO FEC		07/16/2007			13	27039474079	PDF
JULY QUARTERLY		07/16/2007	04/01/2007	06/30/2007	13	27990305547	PDF
JULY QUARTERLY	AMEND	07/18/2007	04/01/2007	06/30/2007	14	27990310459	PDF
JULY QUARTERLY	AMEND	09/18/2009	04/01/2007	06/30/2007	13	29992825399	PDF
JULY QUARTERLY	AMEND	10/14/2009	04/01/2007	06/30/2007	13	29992926989	PDF
OCTOBER QUARTERLY		10/15/2007	07/01/2007	09/30/2007	46	27990800276	PDF
YEAR-END		01/31/2008	10/01/2007	12/31/2007	36	28930274477	PDF
YEAR-END	AMEND	09/18/2009	10/01/2007	12/31/2007	36	29934542677	PDF
REQUEST FOR ADDITIONAL INFORMATION		10/14/2009	10/01/2007	12/31/2007	3	29030162281	PDF

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MISCELLANEOUS TEXT (FEC Form 99)

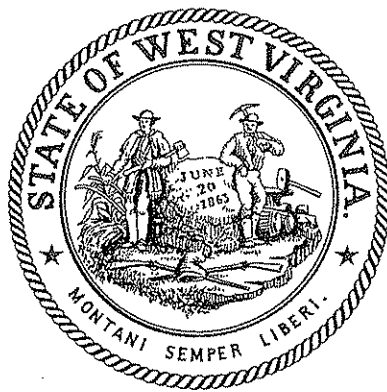
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Explanation of late quarterly report.

Oct 15 2011 quarterly report was completed and ready to submit prior to due date, but we were unable to successfully download new FEC software. Several attempts to contact FEC were made, but due to high volume of calls, we were unable to actually speak with a technician during times that the campaign files were accessible. Finally able to coordinate schedules with FEC staff on Friday. Software issues were fixed, and file was successfully uploaded at that time.

EXHIBIT M

WEST VIRGINIA LEGISLATURE
SENATE JOURNAL
EIGHTIETH LEGISLATURE



FIRST EXTRAORDINARY SESSION, 2011

AUGUST 1-5, 2011

WEST VIRGINIA LEGISLATURE
SENATE JOURNAL
EIGHTIETH LEGISLATURE
FIRST EXTRAORDINARY SESSION, 2011

MONDAY, AUGUST 1, 2011

Pursuant to the proclamation of His Excellency, the Governor, the Honorable Earl Ray Tomblin, dated the twenty-ninth day of July, two thousand eleven, convening the eightieth Legislature of West Virginia in extraordinary session today (Monday, August 1, 2011), under the provisions of section seven, article seven of the Constitution of West Virginia, the Senate assembled in its chamber in the state capitol in the City of Charleston at 12 o'clock Noon, and was called to order by its Acting President, the Honorable Jeffrey V. Kessler.

Prayer was offered by Pastor Matthew J. Watts, Grace Bible Church, Charleston, West Virginia.

On the call of the roll, the following answered to their names:

Senators Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Fanning, Foster, Green, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Tucker, Unger, Williams, Wills, Yost and Kessler (Acting President).

Thirty-two members having answered to their names, the Acting President declared the presence of a quorum.

report of the House Select Committee on Redistricting rejected - Amendments pending - Amended - Passed House 8/5/11 - Effect from passage - To Senate 8/5/11 - Committee reference dispensed - Constitutional rule suspended - Passed Senate 8/5/11 - Effective from passage - To Governor 8/17/11 - Vetoed by Governor 8/17/11

SENATE BILLS PASSED LEGISLATURE

- *1001. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Reducing consumers sales and service tax on food and food ingredients** - Passed 8/5/11; Effective from passage - To Governor 8/17/11 - Approved by Governor 8/23/11 - Chapter 7, Acts, 1st Extraordinary Session, 2011
- *1002. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Dedicating portion of coal severance tax to county of origin** - Passed 8/5/11 - To Governor 8/17/11 - Approved by Governor 8/23/11 - Chapter 8, Acts, 1st Extraordinary Session, 2011
- 1003. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Clarifying requirement for deposit and transfer of higher education proceeds from real property** - Passed 8/5/11; Effect from passage - To Governor 8/17/11 - Approved by Governor 8/23/11 - Chapter 4, Acts, 1st Extraordinary Session, 2011
- 1004. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Making supplementary appropriation of unappropriated moneys to various accounts** - Passed 8/5/11; Effect from passage - To Governor 8/10/11 - Approved by Governor 8/10/11 - Chapter 1, Acts, 1st Extraordinary Session, 2011
- 1005. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Supplementing, amending and increasing appropriations to Department of Transportation** - Passed 8/5/11; Effect from passage - To Governor 8/10/11 - Approved by Governor 8/10/11 - Chapter 2, Acts, 1st Extraordinary Session, 2011
- 1006. By Sen. Unger, Stollings, Browning, Edgell, D. Facemire, Foster, Klempa, Laird, Miller, Palumbo, Plymale, Prezioso, Williams, Barnes, Boley and Hall (Originating in Senate Select Committee on Redistricting) - **Reapportioning senatorial districts** - Passed 8/5/11; Effect from passage - To Governor 8/17/11 - Approved by Governor 8/18/11 - Chapter 6, Acts, 1st Extraordinary Session, 2011
- 1007. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Making supplementary appropriation of unappropriated moneys to Secretary of State** - Passed 8/5/11; Effect from passage - To Governor 8/10/11 - Approved by Governor 8/10/11 - Chapter 3, Acts, 1st Extraordinary Session, 2011
- 1008. By Sen. Stollings, Browning, Edgell, D. Facemire, Foster, Klempa, Laird, Palumbo, Prezioso, Williams, Barnes, Boley and Hall (Originating in Senate Select Committee on Redistricting) - **Reapportioning congressional districts** - Passed 8/5/11; Effective from passage - To Governor 8/17/11 - Approved by Governor 8/18/11 - Chapter 5, Acts, 1st Extraordinary Session, 2011

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exceed \$20 million; and providing for the distribution of such dedicated amounts to coal-producing counties.

FIFTH: Legislation clarifying the requirement for deposit and transfer of proceeds from the sale, lease, conveyance or exchange of real property by the West Virginia Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education and the institutional governing boards.

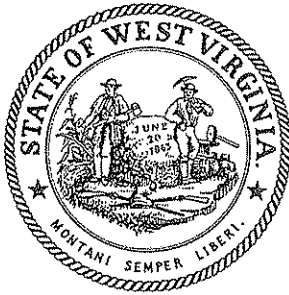
SIXTH: A supplemental appropriation bill to fund 0131, fiscal year 2012, organization 1400, of the Department of Agriculture account; to fund 0313, fiscal year 2012, organization 0402, of the Department of Education-State Department of Education account; to fund 0294, fiscal year 2012, organization 0431, of the Department of Education and the Arts — Office of the Secretary account; to fund 0273, fiscal year 2012, organization 0313, of the Department of Environmental Protection-Division of Environmental Protection account; to fund 0407, fiscal year 2012, organization 0506, of the Department of Health and Human Resources — Division of Health — Central Office account; to fund 0525, fiscal year 2012, organization 0506, of the Department of Health and Human Resources — Consolidated Medical Service Fund account; to fund 0403, fiscal year 2012, organization 0511, of the Department of Health and Human Resources — Division of Human Services account; and to fund 0453, fiscal year 2012, organization 0612, of the Department of Military Affairs and Public Safety — West Virginia State Police account.

SEVENTH: A supplemental appropriation bill to fund 9017, fiscal year 2012, organization 0803, of the Department of Transportation - Division of Highways account.

EIGHTH: Certain ceremonial and memorial resolutions.

NINTH: Legislation authorizing and appropriating the expenditure of public moneys to pay the expenses of this extraordinary session.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



DONE at the Capitol in the City of Charleston, State of West Virginia, this the twenty-ninth day of July, in the year of our Lord, Two Thousand Eleven, and in the One Hundred Forty-Ninth year of the State.

EARL RAY TOMBLIN,
Governor.

By the Governor:

NATALIE E. TENNANT,
Secretary of State.

Senator Unger offered the following resolution:

Senate Resolution No. 101—Raising a committee to inform the House of Delegates the Senate has assembled in extraordinary session.

Resolved by the Senate:

That a committee of three be appointed by the Acting President to inform the House of Delegates that the Senate has assembled in extraordinary session, with a quorum present, and is ready to proceed with the business for which the extraordinary session was called by His Excellency, the Governor.

At the request of Senator Unger, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Whereupon, the Acting President appointed as members of such committee the following:

Senators Laird, Klempa and Nohe.

Subsequently, Senator Laird, from the committee to notify the House of Delegates the Senate has assembled in extraordinary session, and is ready to proceed with the business of the session, announced that the committee had discharged its duties.

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A message from the House of Delegates, by

Delegates Hall, Craig and Martin, announced that the House of Delegates has assembled in extraordinary session, with a quorum present, and is ready to proceed with the business stated in the proclamation convening the Legislature.

Senator Unger then offered the following resolution:

Senate Resolution No. 102—Raising a committee to wait upon the Governor.

Resolved by the Senate:

That a committee of three on the part of the Senate, to join with a similar committee on the part of the House of Delegates, be appointed by the Acting President to notify His Excellency, the Governor, that at his call the Legislature has assembled in extraordinary session, with a quorum of each house present; and is ready to receive any communication or message he may be pleased to present under section seven, article seven of the Constitution of West Virginia, which provides that no business except that stated in his proclamation be considered.

At the request of Senator Unger, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Whereupon, the Acting President appointed as members of such committee the following:

Senators Miller, Stollings and Hall.

A message from the House of Delegates, by

Delegates Staggars, Walker and Border, announced that the Speaker had appointed them a committee of three to join with a similar committee on the part of the Senate to wait upon the Governor, under the provisions of Senate Resolution No. 102. Senate and House members of this select committee then proceeded to the executive offices.

Subsequently, Senator Miller reported that the joint Senate and House committee had performed the duty assigned to it.

The following communication was reported by the Clerk:

WEST VIRGINIA LEGISLATURE
CHARLESTON

June 29, 2011

The Honorable Darrell E. Holmes
Clerk of the Senate
State Capitol
Charleston, West Virginia

The Honorable Gregory M. Gray
Clerk of the House of Delegates
State Capitol
Charleston, West Virginia

Dear Clerk Holmes and Clerk Gray:

We have appointed the following judges to the Court of Claims:

George Fordham of Clarksburg, West Virginia, to the remaining two years of the unexpired term of the Legislature's Court of Claims effective July 1, 2011.

John David Cecil of St. Albans, West Virginia, presiding judge of the Legislature's Court of Claims effective July 1, 2011.

T. C. McCarthy of Wheeling, West Virginia, for a full six-year term on the Legislature's Court of Claims effective July 1, 2011.

Sincerely,

Jeffrey V. Kessler,
Acting President, Senate.

Richard Thompson,
Speaker, House of Delegates.

Which communication was received and referred to the Committee on Confirmations.

On motion of Senator Edgell, consideration of the nominations immediately hereinbefore reported was made a special order of business for tomorrow, Tuesday, August 1, 2011, at 11 a.m.

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The Senate proceeded to the third order of business.

Executive Communications

Senator Kessler (Acting President) laid before the Senate the following communication from His Excellency, the Governor, consisting of executive nominations for appointees:

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

August 1, 2011

Senate Executive Message No. 1

TO: The Honorable Members of the
West Virginia Senate

Ladies and Gentlemen:

I respectfully submit the following nominations for your advice and consent:

1. For Acting Director, Division of Protective Services, Randy Mayhew, Hurricane, Putnam County, to serve at the will and pleasure of the Governor.
2. For Member, Board of Directors of the West Virginia United Health System, Inc., Richard Pill, Martinsburg, Berkeley County, for the term ending October 15, 2012.
3. For Member, Broadband Deployment Council, Jeffrey Forbes, Vienna, Wood County, for the term ending December 31, 2011.
4. For Member, Health Care Authority, The Honorable Jim Pitrolo, Charleston, Kanawha County, for the term ending March 12, 2017.
5. For Member, Mine Inspectors' Examining Board, William Wooten III, Wilkinson, Logan County, for the term ending June 30, 2015.

6. For Member, Mine Inspectors' Examining Board, Charles Justice, Justice, Mingo County, for the term ending June 30, 2013.

7. For Member, Mine Inspectors' Examining Board, Carl Egnor, Given, Jackson County, for the term ending June 30, 2015.

8. For Member, Special Reclamation Fund Advisory Council, Christine Risch, Huntington, Cabell County, for the term ending June 30, 2012.

9. For Member, Board of Medicine, Dr. Cathy Funk, Martinsburg, Berkeley County, for the term ending September 30, 2014.

10. For Member, Tourism Commission, Walter Brown, Martinsburg, Berkeley County, for the term ending May 1, 2015.

11. For Member, Tourism Commission, John Klemish, White Sulphur Springs, Greenbrier County, for the term ending May 1, 2015.

12. For Member, Tourism Commission, Jeffrey Lusk, Lyburn, Logan County, for the term ending May 1, 2015.

13. For Member, Council for Educational Opportunity for Military Children, Major General James Hoyer, Charleston, Kanawha County, for the term ending June 30, 2015.

14. For Secretary, Department of Veterans' Assistance, Keith Gwinn, Hurricane, Putnam County, to serve at the will and pleasure of the Governor.

15. For Member, Parkways Authority, Victor Grigoraci, Charleston, Kanawha County, for the term ending May 31, 2016.

16. For Member, Medical Imaging and Radiation Therapy Technology Board of Examiners, Eva Hallis, Charleston, Kanawha County, for the term ending June 30, 2013.

17. For Member, Medical Imaging and Radiation Therapy Technology Board of Examiners, Nancy Oughton, Morgantown, Monongalia County, for the term ending June 30, 2013.

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18. For Member, Medical Imaging and Radiation Therapy Technology Board of Examiners, Tuanya Layton, Charleston, Kanawha County, for the term ending June 30, 2013.

19. For Member, West Liberty University Board of Governors, George Couch, Wheeling, Ohio County, for the term ending June 30, 2013.

20. For Member, West Liberty University Board of Governors, Dr. Edward Marks, Wellsburg, Brooke County, for the term ending June 30, 2012.

21. For Member, Commission for the Deaf and Hard of Hearing, George Blakely, Springfield, Hampshire County, for the term ending June 30, 2013.

22. For Member, Commission for the Deaf and Hard of Hearing, Jamie Mallory, Dunbar, Kanawha County, for the term ending June 30, 2013.

23. For Member, Commission for the Deaf and Hard of Hearing, Pierre Sevigny, Romney, Hampshire County, for the term ending June 30, 2014.

24. For Member, Commission for the Deaf and Hard of Hearing, Paul See, Moorefield, Hardy County, for the term ending June 30, 2014.

25. For Member, Board of Dental Examiners, Dr. L. Edward Eckley, Beckley, Raleigh County, for the term ending June 30, 2016.

26. For Member, Board of Dental Examiners, Dr. George Conard, Huntington, Cabell County, for the term ending June 30, 2016.

27. For Member, Board of Dental Examiners, Beverly Stevens, South Charleston, Kanawha County, for the term ending June 30, 2016.

28. For Member, West Virginia University Board of Governors, Ellen Cappellanti, Charleston, Kanawha County, for the term ending June 30, 2015.

29. For Member, West Virginia University Board of Governors, William Nutting, Wheeling, Ohio County, for the term ending June 30, 2015.

30. For Member, West Virginia University Board of Governors, James Dailey, Martinsburg, Berkeley County, for the term ending June 30, 2015.

31. For Member, Marshall University Board of Governors, Phyllis Arnold, Charleston, Kanawha County, for the term ending June 30, 2015.

32. For Member, Marshall University Board of Governors, David Haden, Charleston, Kanawha County, for the term ending June 30, 2015.

33. For Member, Fairmont State University Board of Governors, Frank Washenitz, Fairmont, Marion County, for the term ending June 30, 2015.

34. For Member, Board of Landscape Architects, Michael Biafore, Fairmont, Marion County, for the term ending June 30, 2012.

35. For Member, Board of Funeral Service Examiners, Ira Handley, Danville, Boone County, for the term ending June 30, 2015.

36. For Member, West Liberty University Board of Governors, Ann Thomas, Wheeling, Ohio County, for the term ending June 30, 2015.

37. For Member, Motorcycle Safety Awareness Board, Mike Adkins, Delbarton, Mingo County, for the term ending June 30, 2013.

38. For Member, Motorcycle Safety Awareness Board, Ray Carey, Lesage, Cabell County, for the term ending June 30, 2014.

39. For Member, Motorcycle Safety Awareness Board, Linda Gumm, Elkview, Kanawha County, for the term ending June 30, 2012.

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40. For Member, Industrial Council, Edward Kent Hartsog, Hurricane, Putnam County, for the term ending June 30, 2015.

41. For Member, Kanawha Valley Community and Technical College Board of Governors, Martha Rader, Charleston, Kanawha County, for the term ending June 30, 2015.

42. For Member, Blue Ridge Community and Technical College Board of Governors, Rebecca Linton, Martinsburg, Berkeley County, for the term ending June 30, 2013.

43. For Member, Shepherd University Board of Governors, W. Mark Rudolph, Winchester, Virginia, for the term ending June 30, 2015.

44. For Member, Shepherd University Board of Governors, Holly McCall, Shepherdstown, Jefferson County, for the term ending June 30, 2015.

45. For Member, Bluefield State College Board of Governors, Larry Ratliff, Cedar Bluff, Virginia, for the term ending June 30, 2015.

46. For Member, West Virginia State University Board of Governors, The Honorable Larry L. Rowe, Charleston, Kanawha County, for the term ending June 30, 2015.

47. For Member, West Virginia State University Board of Governors, William Lipscomb, Institute, Kanawha County, for the term ending June 30, 2015.

48. For Member, West Virginia State University Board of Governors, Dr. Ann Brothers Smith, Detroit, Michigan, for the term ending June 30, 2013.

49. For Member, Parole Board, Steve Svokas, Weirton, Hancock County, for the term ending June 30, 2017.

50. For Member, Parole Board, Crystal Lynn Love, Oak Hill, Fayette County, for the term ending June 30, 2017.

51. For Member, Fire Commission, Thomas Keefer, Winfield, Putnam County, for the term ending June 30, 2016.

52. For Member, Fire Commission, Gary Bonnett, Rock Cave, Upshur County, for the term ending June 30, 2016.

53. For Member, Driver's License Advisory Board, Dr. J. Keith Wade, Fairmont, Marion County, for the term ending June 30, 2013.

54. For Member, Driver's License Advisory Board, Dr. Charles Vance, Midkiff, Lincoln County, for the term ending June 30, 2013.

55. For Member, Driver's License Advisory Board, Dr. Joe LoCascio, Huntington, Cabell County, for the term ending June 30, 2013.

56. For Member, Driver's License Advisory Board, Dr. John Brick, Morgantown, Monongalia County, for the term ending June 30, 2013.

57. For Member, Consolidated Public Retirement Board, Joseph Bunn, Charleston, Kanawha County, for the term ending June 30, 2012.

58. For Acting Commissioner, Insurance Commission, Mike Riley, Charleston, Kanawha County, to serve at the will and pleasure of the Governor.

59. For Member, Workforce Investment Council, Jim O'Connor, Belle, Kanawha County, for the term ending June 30, 2012.

60. For Member, Motor Vehicle Dealers Advisory Board, Kelly Smith, Charleston, Kanawha County, for the term ending June 30, 2013.

61. For Member, Motor Vehicle Dealers Advisory Board, Polly Diller, Charleston, Kanawha County, for the term ending June 30, 2013.

62. For Member, Motor Vehicle Dealers Advisory Board, Larry Myers, Bridgeport, Harrison County, for the term ending June 30, 2014.

63. For Member, Motor Vehicle Dealers Advisory Board, James Williams, Martinsburg, Berkeley County, for the term ending June 30, 2014.

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64. For Member, Motor Vehicle Dealers Advisory Board, Michael Ratz, Logan, Logan County, for the term ending June 30, 2014.

65. For Member, Motor Vehicle Dealers Advisory Board, Margaret Wills, Fairmont, Marion County, for the term ending June 30, 2013.

66. For Member, Motor Vehicle Dealers Advisory Board, Michael Keener, Hurricane, Putnam County, for the term ending June 30, 2013.

67. For Member, Public Employees Insurance Agency Finance Board, Elaine Harris, St. Albans, Kanawha County, for the term ending June 30, 2015.

68. For Acting Executive Director, Human Rights Commission, Phyllis Carter, Institute, Kanawha County, to serve at the will and pleasure of the Governor.

69. For Member, Higher Education Policy Commission, Jenny Allen, Shepherdstown, Jefferson County, for the term ending June 30, 2015.

70. For Member, Higher Education Policy Commission, Kathy Eddy, Parkersburg, Wood County, for the term ending June 30, 2015.

Notice of these appointments was previously provided to the appropriate legislative staff at the time the appointments were made.

Sincerely,

Earl Ray Tomblin,
Governor.

Which communication was received and referred to the Committee on Confirmations and incorporated with the legislative nominations received earlier; all to be considered as a special order of business for tomorrow, Tuesday, August 1, 2011, at 11 a.m.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

By Senators Kessler (Acting President) and Hall (By Request of the Executive):

Senate Bill No. 1001—A Bill to amend and reenact §11-15-3a of the Code of West Virginia, 1931, as amended, relating to reducing the consumers sales and service tax on sales, purchases and uses of food and food ingredients intended for human consumption on a date certain.

Referred to the Committee on Finance.

By Senators Kessler (Acting President) and Hall (By Request of the Executive):

Senate Bill No. 1002—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-13A-6a, relating to reallocating and dedicating five percent of coal severance tax revenues up to \$20 million to the coal-producing counties of origin to be phased in over a five-year period after accounting for the revenues dedicated to other funds; establishing state and local coal county reallocated severance tax funds and providing for distribution of the moneys to the county commissions by the State Treasurer; establishing amounts each coal-producing county to receive; requiring the creation of local funds into which moneys to be deposited; requiring moneys be expended solely for economic development projects and infrastructure projects; providing definitions; providing restrictions on the expenditure of moneys; providing duties of State Tax Commissioner; providing audits of distributed funds when authorized by the Joint Committee on Government and Finance; authorizing legislative and emergency rules; and establishing administrative fees.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

By Senators Kessler (Acting President) and Hall (By Request of the Executive):

Senate Bill No. 1003—A Bill to amend and reenact §18B-19-10 of the Code of West Virginia, 1931, as amended, relating to

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clarifying the requirement for deposit and transfer of proceeds from the sale, lease, exchange or conveyance of real property.

Referred to the Committee on Finance.

By Senators Kessler (Acting President) and Hall (By Request of the Executive):

Senate Bill No. 1004—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Agriculture, fund 0131, fiscal year 2012, organization 1400, to the Department of Education, State Department of Education, fund 0313, fiscal year 2012, organization 0402, to the Department of Education and the Arts, Department of Education and the Arts - Office of the Secretary, fund 0294, fiscal year 2012, organization 0431, to the Department of Environmental Protection, Division of Environmental Protection, fund 0273, fiscal year 2012, organization 0313, to the Department of Health and Human Resources, Division of Health - Central Office, fund 0407, fiscal year 2012, organization 0506, to the Department of Health and Human Resources, Consolidated Medical Service Fund, fund 0525, fiscal year 2012, organization 0506, to the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2012, organization 0511, and to the Department of Military Affairs and Public Safety, West Virginia State Police, fund 0453, fiscal year 2012, organization 0612, by supplementing and amending the appropriations for the fiscal year ending June 30, 2012.

Referred to the Committee on Finance.

By Senators Kessler (Acting President) and Hall (By Request of the Executive):

Senate Bill No. 1005—A Bill supplementing, amending and increasing items of the existing appropriations from the State Road Fund to the Department of Transportation - Division of Highways, fund 9017, fiscal year 2012, organization 0803, for the fiscal year ending June 30, 2012.

Referred to the Committee on Finance.

At the request of Senator Unger, unanimous consent being granted, Senator Unger offered the following resolution from the floor:

Senate Resolution No. 103 — Creating a Senate Select Committee on Redistricting for the eightieth Legislature.

Resolved by the Senate:

That for a period of time not to exceed the term of the eightieth Legislature there is hereby created a Senate Select Committee on Redistricting. This committee shall consist of seventeen members appointed by the Presiding Officer. Notwithstanding the provisions of any Senate rule to the contrary, this committee shall have jurisdiction of legislative proposals to arrange senatorial and delegate districts, to divide and alter the State into senatorial districts for the election of senators, to apportion delegate representation in the House of Delegates for the election of delegates, to divide the State into districts for the election of representatives to the Congress and related matters. The rules of the Senate governing standing committees shall govern the actions and proceedings of this committee insofar as applicable.

At the request of Senator Unger, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

In accordance with Senate Resolution No. 103 (*Creating Senate Select Committee on Redistricting*), Senator Kessler (Acting President) appointed the following members of the select committee:

Senators Unger (*Chair*), Stollings (*Vice Chair*), Browning, Edgell, D. Facemire, Fanning, Foster, Klempa, Laird, Miller, Palumbo, Plymale, Prezioso, Williams, Barnes, Boley and Hall.

The Senate proceeded to the eleventh order of business and the introduction of guests.

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senator McCabe.

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Thereafter, at the request of Senator Foster, and by unanimous consent, the remarks by Senator McCabe were ordered printed in the Appendix to the Journal.

Pending announcement of meetings of standing and select committees of the Senate, including a minority party caucus,

On motion of Senator Unger, the Senate recessed until 6 p.m. today.

Upon expiration of the recess, the Senate reconvened and, without objection, returned to the third order of business.

Executive Communications

The following communication from His Excellency, the Governor, was reported by the Clerk:

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

August 1, 2011

Senate Executive Message No. 2

The Honorable Jeffrey V. Kessler
Acting President, West Virginia Senate
State Capitol
Charleston, West Virginia

Dear Mr. Acting President:

The following replaces the "General Revenue Fund – Statement of Revenues, Expenditures and Changes in Cash Balance" which I submitted to you on January 12, 2011 as part of my recommended Budget for the fiscal year ending June 30, 2012.

General Revenue Fund Statement of Revenues, Expenditures and Changes in Cash Balance

Actual Beginning Cash Balance July 1, 2011	\$ 792,926,842
Less:	
31 Day Disbursements	
(July 1, 2011 - July 31, 2011)	(28,580,912)

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Accumulated Prior Year Reimbursements		
(July 1, 2011 - July 31, 2011)		14,673
Prior Year Appropriations Forwarded	<u>(425,551,354)</u>	
Accumulated Surplus from FY 2011		
@ July 31, 2011	\$	338,809,249
Less:		
Transfer one-half to Revenue Shortfall		
Reserve Fund (Statutory)		(169,404,625)
Less:		
Surplus Appropriations		
(FY 2012 Budget Bill HB 2012 - 2011		
Regular Session)		(45,081,990)
Plus:		
Accumulated Prior Year Reimbursements		
(August 1, 2011 - August 1, 2011)		0
Less:		
Recommended Surplus Supplemental Appro-		
priations (2011 1 st Extraordinary Session)	<u>(33,003,108)</u>	
Estimated Unappropriated Surplus Balance		
@ June 30, 2012		\$ 91,319,526
Plus:		
Revenue Estimate FY 2012	\$	4,015,621,000
Less:		
Regular Appropriations FY 2012	<u>(4,001,532,057)</u>	
Estimated Unappropriated Balance from		
FY 2012 @ June 30, 2012		\$ 14,088,943
Total Estimated Unappropriated Balance		
@ June 30, 2012		<u>\$105,408,469</u>

The following replaces the "State Road Fund – Statement of Revenues, Expenditures and Changes in Cash Balance" which I submitted to you on January 12, 2011 as part of my recommended Budget for the fiscal year ending June 30, 2012.

State Road Fund
Statement of Revenues, Expenditures
and Changes in Cash Balance

Balance July 1, 2011	\$	125,892,797
Plus:		
Revenue Estimate FY 2012	<u>1,151,591,998</u>	
Available for FY 2012 Appropriations	\$	1,277,484,795

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Less:

Regular Appropriations FY 2012 -	
Division of Highways	(1,126,224,821)
Regular Appropriations FY 2012 -	
Division of Motor Vehicles	(40,578,725)
Regular Appropriations FY 2012 -	
Office of Administrative Hearings	(1,951,979)
Claims Against the State Road Fund	(2,390,821)

Less:

Recommended FY 2012 Supplemental Appropria-	
tions (2011 1 st Extraordinary Session):	<u>(62,500,000)</u>
Estimated Unappropriated Balance	
@ June 30, 2012	<u>\$43,838,449</u>

Thank you for your cooperation in this matter.

Sincerely,

Earl Ray Tomblin,
Governor.

In compliance with Article VI, Section 51 of the Constitution, the Senate consented to receive the foregoing amendments to the Budget Bill, which were referred to the Committee on Finance.

The Senate proceeded to the fifth order of business.

Senator Unger, from the Select Committee on Redistricting, submitted the following report, which was received:

Your Select Committee on Redistricting has had under consideration

Senate Bill No. 1006 (originating in the Select Committee on Redistricting)—A Bill to amend and reenact §1-2-1 and §1-2-2b of the Code of West Virginia, 1931, as amended, all relating to dividing and altering the state into senatorial districts; defining terms; setting forth legislative findings; providing for senatorial districts; and requiring incidental precinct boundary changes.

And reports the same back with the recommendation that it do pass.

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Respectfully submitted,

John R. Unger II,
Chair.

At the request of Senator Unger, unanimous consent being granted, the bill (S. B. No. 1006) contained in the preceding report from the Select Committee on Redistricting was taken up for immediate consideration, read a first time and ordered to second reading.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Unger, the Senate adjourned until tomorrow, Tuesday, August 2, 2011, at 11 a.m.

TUESDAY, AUGUST 2, 2011

The Senate met at 11 a.m.

(Senator Kessler, Acting President, in the Chair.)

Prayer was offered by the Reverend Dennis Sparks, Executive Director, West Virginia Council of Churches, Charleston, West Virginia.

Pending the reading of the Journal of Monday, August 1, 2011,

On motion of Senator Plymale, the Journal was approved and the further reading thereof dispensed with.

The Clerk presented a communication from the Commission on Uniform State Laws, submitting its annual report, in accordance with chapter twenty-nine, article one-a, section four of the code of West Virginia.

Which report was received and filed with the Clerk.

The Clerk presented a communication from the Office of Health Facility Licensure and Certification, submitting its annual nursing

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home licensing report, in accordance with chapter sixteen, article five-c, section three of the code of West Virginia.

Which report was received and filed with the Clerk.

The Clerk presented a communication from the Tax Commissioner, submitting the report of the Telecommunications Tax Study Workgroup, in accordance with chapter eleven, article thirteen-b, section nineteen of the code of West Virginia.

Which report was received and filed with the Clerk.

The Clerk presented a communication from the Higher Education Policy Commission and the Council for Community and Technical Education, submitting the annual report on services and facilities for student veterans, in accordance with chapter eighteen-b, article four, section nine of the code of West Virginia.

Which report was received and filed with the Clerk.

The Clerk presented a communication from the Higher Education Policy Commission and the Council for Community and Technical Education, submitting the annual report on priorities for capital investments, in accordance with chapter eighteen-b, article one-b, section four and chapter eighteen-b, article two-b, section six of the code of West Virginia.

Which report was received and filed with the Clerk.

The Clerk presented a communication from the Carbon Dioxide Sequestration Working Group, submitting its final report, in accordance with chapter twenty-two, article eleven-a, section six of the code of West Virginia.

Which report was received and filed with the Clerk.

Senator Kessler (Acting President) presented a communication from the Maternal Mortality Review Team, submitting its annual report as required by chapter forty-eight, article twenty-five-a, section three of the code of West Virginia.

Which communication and report were received and filed with the Clerk.

Senator Kessler (Acting President) presented a communication from the Public Employees Grievance Board, submitting its annual report as required by chapter six-c, article three, section three of the code of West Virginia.

Which report was received and filed with the Clerk.

Senator Kessler (Acting President) presented a communication from the Department of Revenue, submitting its annual Public Employees Insurance Reserve Fund report as required by chapter eleven-b, article two, section fifteen of the code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate next proceeded to the fourth order of business.

Senator Browning, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Senate Bill No. 1002, Dedicating portion of coal severance tax to county of origin.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill No. 1002 (originating in the Committee on Economic Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-13A-6a, relating to reallocating and dedicating five percent of coal severance tax revenues up to \$20 million to the coal-producing counties of origin to be phased in over a five-year period after accounting for the revenues dedicated to other funds; establishing state and local coal county reallocated severance tax funds and providing for distribution of the moneys to the county commissions by the State Treasurer; establishing amounts each coal-producing county to receive; requiring the creation of local funds into which moneys to be deposited; requiring moneys be expended solely for economic development projects and

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infrastructure projects; providing definitions; providing restrictions on the expenditure of moneys; providing duties of State Tax Commissioner; requiring report of expenditures to Joint Committee on Government and Finance; providing audits of distributed funds when authorized by the Joint Committee on Government and Finance; and authorizing legislative and emergency rules.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Richard Browning,
Chair.

At the request of Senator Browning, unanimous consent being granted, the bill (Com. Sub. for S. B. No. 1002) contained in the preceding report from the Committee on Economic Development was taken up for immediate consideration, read a first time, ordered to second reading and, under the original double committee reference, was then referred to the Committee on Finance.

Senator Edgell, from the Committee on Confirmations, submitted the following report, which was received:

Your Committee on Confirmations has had under consideration

Senate Executive Message No. 1, dated August 1, 2011, requesting confirmation by the Senate of the nominations mentioned therein. The following list of names from Executive Message No. 1 is submitted:

1. For Acting Director, Division of Protective Services, Randy Mayhew, Hurricane, Putnam County, to serve at the will and pleasure of the Governor.
2. For Member, Board of Directors of the West Virginia United Health System, Inc., Richard Pill, Martinsburg, Berkeley County, for the term ending October 15, 2012.

3. For Member, Broadband Deployment Council, Jeffrey Forbes, Vienna, Wood County, for the term ending December 31, 2011.

4. For Member, Health Care Authority, The Honorable Jim Pitrolo, Charleston, Kanawha County, for the term ending March 12, 2017.

5. For Member, Mine Inspectors' Examining Board, William Wooten III, Wilkinson, Logan County, for the term ending June 30, 2015.

6. For Member, Mine Inspectors' Examining Board, Charles Justice, Justice, Mingo County, for the term ending June 30, 2013.

7. For Member, Mine Inspectors' Examining Board, Carl Egnor, Given, Jackson County, for the term ending June 30, 2015.

8. For Member, Special Reclamation Fund Advisory Council, Christine Risch, Huntington, Cabell County, for the term ending June 30, 2012.

9. For Member, Board of Medicine, Dr. Cathy Funk, Martinsburg, Berkeley County, for the term ending September 30, 2014.

10. For Member, Tourism Commission, Walter Brown, Martinsburg, Berkeley County, for the term ending May 1, 2015.

11. For Member, Tourism Commission, John Klemish, White Sulphur Springs, Greenbrier County, for the term ending May 1, 2015.

12. For Member, Tourism Commission, Jeffrey Lusk, Lyburn, Logan County, for the term ending May 1, 2015.

13. For Member, Council for Educational Opportunity for Military Children, Major General James Hoyer, Charleston, Kanawha County, for the term ending June 30, 2015.

14. For Secretary, Department of Veterans' Assistance, Keith Gwinn, Hurricane, Putnam County, to serve at the will and pleasure of the Governor.

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15. For Member, Parkways Authority, Victor Grigoraci, Charleston, Kanawha County, for the term ending May 31, 2016.

16. For Member, Medical Imaging and Radiation Therapy Technology Board of Examiners, Eva Hallis, Charleston, Kanawha County, for the term ending June 30, 2013.

17. For Member, Medical Imaging and Radiation Therapy Technology Board of Examiners, Nancy Oughton, Morgantown, Monongalia County, for the term ending June 30, 2013.

18. For Member, Medical Imaging and Radiation Therapy Technology Board of Examiners, Tuanya Layton, Charleston, Kanawha County, for the term ending June 30, 2013.

19. For Member, West Liberty University Board of Governors, George Couch, Wheeling, Ohio County, for the term ending June 30, 2013.

20. For Member, West Liberty University Board of Governors, Dr. Edward Marks, Wellsburg, Brooke County, for the term ending June 30, 2012.

21. For Member, Commission for the Deaf and Hard of Hearing, George Blakely, Springfield, Hampshire County, for the term ending June 30, 2013.

22. For Member, Commission for the Deaf and Hard of Hearing, Jamie Mallory, Dunbar, Kanawha County, for the term ending June 30, 2013.

23. For Member, Commission for the Deaf and Hard of Hearing, Pierre Sevigny, Romney, Hampshire County, for the term ending June 30, 2014.

24. For Member, Commission for the Deaf and Hard of Hearing, Paul See, Moorefield, Hardy County, for the term ending June 30, 2014.

25. For Member, Board of Dental Examiners, Dr. L. Edward Eckley, Beckley, Raleigh County, for the term ending June 30, 2016.

26. For Member, Board of Dental Examiners, Dr. George Conard, Huntington, Cabell County, for the term ending June 30, 2016.

27. For Member, Board of Dental Examiners, Beverly Stevens, South Charleston, Kanawha County, for the term ending June 30, 2016.

28. For Member, West Virginia University Board of Governors, Ellen Cappellanti, Charleston, Kanawha County, for the term ending June 30, 2015.

29. For Member, West Virginia University Board of Governors, William Nutting, Wheeling, Ohio County, for the term ending June 30, 2015.

30. For Member, West Virginia University Board of Governors, James Dailey, Martinsburg, Berkeley County, for the term ending June 30, 2015.

31. For Member, Marshall University Board of Governors, Phyllis Arnold, Charleston, Kanawha County, for the term ending June 30, 2015.

32. For Member, Marshall University Board of Governors, David Haden, Charleston, Kanawha County, for the term ending June 30, 2015.

33. For Member, Fairmont State University Board of Governors, Frank Washenitz, Fairmont, Marion County, for the term ending June 30, 2015.

34. For Member, Board of Landscape Architects, Michael Biafore, Fairmont, Marion County, for the term ending June 30, 2012.

35. For Member, Board of Funeral Service Examiners, Ira Handley, Danville, Boone County, for the term ending June 30, 2015.

36. For Member, West Liberty University Board of Governors, Ann Thomas, Wheeling, Ohio County, for the term ending June 30, 2015.

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37. For Member, Motorcycle Safety Awareness Board, Mike Adkins, Delbarton, Mingo County, for the term ending June 30, 2013.

38. For Member, Motorcycle Safety Awareness Board, Ray Carey, Lesage, Cabell County, for the term ending June 30, 2014.

39. For Member, Motorcycle Safety Awareness Board, Linda Gumm, Elkview, Kanawha County, for the term ending June 30, 2012.

40. For Member, Industrial Council, Edward Kent Hartsog, Hurricane, Putnam County, for the term ending June 30, 2015.

41. For Member, Kanawha Valley Community and Technical College Board of Governors, Martha Rader, Charleston, Kanawha County, for the term ending June 30, 2015.

42. For Member, Blue Ridge Community and Technical College Board of Governors, Rebecca Linton, Martinsburg, Berkeley County, for the term ending June 30, 2013.

43. For Member, Shepherd University Board of Governors, W. Mark Rudolph, Winchester, Virginia, for the term ending June 30, 2015.

44. For Member, Shepherd University Board of Governors, Holly McCall, Shepherdstown, Jefferson County, for the term ending June 30, 2015.

45. For Member, Bluefield State College Board of Governors, Larry Ratliff, Cedar Bluff, Virginia, for the term ending June 30, 2015.

46. For Member, West Virginia State University Board of Governors, The Honorable Larry L. Rowe, Charleston, Kanawha County, for the term ending June 30, 2015.

47. For Member, West Virginia State University Board of Governors, William Lipscomb, Institute, Kanawha County, for the term ending June 30, 2015.

48. For Member, West Virginia State University Board of Governors, Dr. Ann Brothers Smith, Detroit, Michigan, for the term ending June 30, 2013.

49. For Member, Parole Board, Steve Svokas, Weirton, Hancock County, for the term ending June 30, 2017.

50. For Member, Parole Board, Crystal Lynn Love, Oak Hill, Fayette County, for the term ending June 30, 2017.

51. For Member, Fire Commission, Thomas Keefer, Winfield, Putnam County, for the term ending June 30, 2016.

52. For Member, Fire Commission, Gary Bonnett, Rock Cave, Upshur County, for the term ending June 30, 2016.

53. For Member, Driver's License Advisory Board, Dr. J. Keith Wade, Fairmont, Marion County, for the term ending June 30, 2013.

54. For Member, Driver's License Advisory Board, Dr. Charles Vance, Midkiff, Lincoln County, for the term ending June 30, 2013.

55. For Member, Driver's License Advisory Board, Dr. Joe LoCascio, Huntington, Cabell County, for the term ending June 30, 2013.

56. For Member, Driver's License Advisory Board, Dr. John Brick, Morgantown, Monongalia County, for the term ending June 30, 2013.

57. For Member, Consolidated Public Retirement Board, Joseph Bunn, Charleston, Kanawha County, for the term ending June 30, 2012.

58. For Acting Commissioner, Insurance Commission, Mike Riley, Charleston, Kanawha County, to serve at the will and pleasure of the Governor.

59. For Member, Workforce Investment Council, Jim O'Connor, Belle, Kanawha County, for the term ending June 30, 2012.

60. For Member, Motor Vehicle Dealers Advisory Board, Kelly Smith, Charleston, Kanawha County, for the term ending June 30, 2013.

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61. For Member, Motor Vehicle Dealers Advisory Board, Polly Diller, Charleston, Kanawha County, for the term ending June 30, 2013.

62. For Member, Motor Vehicle Dealers Advisory Board, Larry Myers, Bridgeport, Harrison County, for the term ending June 30, 2014.

63. For Member, Motor Vehicle Dealers Advisory Board, James Williams, Martinsburg, Berkeley County, for the term ending June 30, 2014.

64. For Member, Motor Vehicle Dealers Advisory Board, Michael Ratz, Logan, Logan County, for the term ending June 30, 2014.

65. For Member, Motor Vehicle Dealers Advisory Board, Margaret Wills, Fairmont, Marion County, for the term ending June 30, 2013.

66. For Member, Motor Vehicle Dealers Advisory Board, Michael Keener, Hurricane, Putnam County, for the term ending June 30, 2013.

67. For Member, Public Employees Insurance Agency Finance Board, Elaine Harris, St. Albans, Kanawha County, for the term ending June 30, 2015.

68. For Acting Executive Director, Human Rights Commission, Phyllis Carter, Institute, Kanawha County, to serve at the will and pleasure of the Governor.

69. For Member, Higher Education Policy Commission, Jenny Allen, Shepherdstown, Jefferson County, for the term ending June 30, 2015.

70. For Member, Higher Education Policy Commission, Kathy Eddy, Parkersburg, Wood County, for the term ending June 30, 2015.

And,

A letter from the Acting President of the Senate and the Speaker of the House of Delegates, dated June 29, 2011, requesting

confirmation by the Senate of the nominations mentioned therein.
The following names are submitted:

1. For Judge, Court of Claims, George Fordham, Clarksburg, Harrison County, for the term ending July 1, 2013.
2. For Judge, Court of Claims, T. C. McCarthy, Wheeling, Ohio County, for the term ending July 1, 2017.

And reports the same back with the recommendation that the Senate do advise and consent to all of the nominations listed above.

Respectfully submitted,

Larry J. Edgell,
Chair.

The time having arrived for the special order of business to consider the list of nominees for public office submitted by His Excellency, the Governor, and a legislative nomination submitted by the Acting President of the Senate and the Speaker of the House of Delegates, as required by Chapter 14, Article 2, Section 4 of the Code of West Virginia, the special order thereon was called by the Acting President.

Thereupon, Senator Kessler (Acting President) laid before the Senate the following executive message and letter from the Acting President of the Senate and the Speaker of the House of Delegates:

Senate Executive Message No. 1, dated August 1, 2011 (*shown in the Senate Journal of yesterday, Monday, August 1, 2011, pages 7 through 13, inclusive*);

And,

A letter from the Acting President of the Senate and the Speaker of the House of Delegates, dated June 29, 2011 (*shown in the Senate Journal of yesterday, Monday, August 1, 2011, page 6*).

Senator Edgell then moved that the Senate advise and consent to all of the executive and legislative nominations referred to in the foregoing report from the Committee on Confirmations.

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The question being on the adoption of Senator Edgell's aforestated motion,

The roll was then taken; and

On this question, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Fanning, Foster, Green, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Tucker, Unger, Williams, Wills, Yost and Kessler (Acting President)—32.

The nays were: None.

Absent: Wells and Tomblin (Mr. President)—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the Acting President declared Senator Edgell's motion had prevailed and that all the executive and legislative nominations referred to in the foregoing report from the Committee on Confirmations had been confirmed.

Consideration of executive and legislative nominations having been concluded,

The Senate proceeded to the ninth order of business.

Senate Bill No. 1006, Reapportioning senatorial districts.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Unger, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

The Senate proceeded to the eleventh order of business and the introduction of guests.

On motion of Senator Unger, the Senate adjourned until tomorrow, Wednesday, August 3, 2011, at 11 a.m.

WEDNESDAY, AUGUST 3, 2011

The Senate met at 11 a.m.

(Senator Kessler, Acting President, in the Chair.)

Prayer was offered by the Reverend Alton Dillard, Sr., Allen Chapel A.M.E. Church, Charleston, West Virginia.

Pending the reading of the Journal of Tuesday, August 2, 2011,

On motion of Senator Tucker, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the third order of business.

Senator Kessler (Acting President) laid before the Senate the following supplement to the proclamation dated July 29, 2011, from His Excellency, the Governor, which was read by the Clerk:

STATE OF WEST VIRGINIA
EXECUTIVE DEPARTMENT
CHARLESTON

A P R O C L A M A T I O N

By the Governor

I, EARL RAY TOMBLIN, by virtue of the authority vested in the Governor by Section 7, Article VII of the Constitution of West Virginia, do hereby AMEND my Proclamation dated the twenty-ninth day of July, two thousand eleven, calling the Legislature of West Virginia to convene in Extraordinary Session at twelve o'clock noon on the first day of August, two thousand eleven, in its chambers in the State Capitol, City of Charleston, by amending the third item thereof and by including therein a tenth item, all to read as follows:

THIRD: Legislation increasing the maximum aggregate amount to be deposited into the "Revenue Shortfall Reserve Fund", as provided in subsection (b), section twenty, article two, chapter eleven-b of the Code of West Virginia, from ten percent of total

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appropriations from the State Fund, General Revenue, to a percentage not to exceed fifteen percent of total appropriations from the State Fund, General Revenue, for fiscal years ending on and after June 30, 2011; reducing the rate of consumers sales and service tax and use tax on the sale, purchase and use of food and food ingredients intended for human consumption by an amount not to exceed one half of one percent of the "sales price", as defined in section two, article fifteen-b, chapter eleven of the Code of West Virginia, beginning January 1, 2012; further reducing the rate of consumers sales and service tax and use tax on the sale, purchase and use of food and food ingredients intended for human consumption by an amount not to exceed one half of one percent of the "sales price", as defined in section two, article fifteen-b, chapter eleven of the Code of West Virginia, beginning January 1, 2013, contingent on certain balances in the Revenue Shortfall Reserve Fund; eliminating the consumers sales and service tax and use tax on the sale, purchase and use of food and food ingredients intended for human consumption beginning January 1, 2014, contingent on certain balances in the Revenue Shortfall Reserve Fund; and specifying certain internal effective dates.

TENTH: A supplemental appropriation bill to fund 0155, fiscal year 2012, organization 1600, of the Secretary of State account.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



DONE at the Capitol in the City of Charleston, State of West Virginia, this the third day of August, in the year of our Lord, Two Thousand Eleven, and in the One Hundred Forty-Ninth year of the State.

EARL RAY TOMBLIN,
Governor.

By the Governor:

NATALIE E. TENNANT,
Secretary of State.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bill was introduced, read by its title, and referred to the appropriate committee:

By Senators Kessler (Acting President) and Hall (By Request of the Executive):

Senate Bill No. 1007—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Secretary of State, fund 0155, fiscal year 2012, organization 1600, by supplementing and amending the appropriations for the fiscal year ending June 30, 2012.

Referred to the Committee on Finance.

The Senate proceeded to the eighth order of business.

Senate Bill No. 1006, Reapportioning senatorial districts.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, August 2, 2011, for amendments to be received on third reading, was reported by the Clerk.

On motion of Senator D. Facemire, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page seven, section one, by striking out all of line sixteen;

And,

On page sixty, section one, after line one, by inserting the following:

Block: 540219678002017.

On motion of Senators Fanning and Chafin, the following amendments to the bill (S. B. No. 1006) were next reported by the Clerk and considered simultaneously:

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On page twenty-six, section one, after line eleven, by inserting the following:

“Voting district: 28”;

On page twenty-seven, section one, after line ten, by inserting the following:

“Voting district: 34”;

On page fifty-five, section one, by striking out all of line thirteen;

And,

On page fifty-six, section one, by striking out all of line five.

Following discussion,

The question being on the adoption of the amendments offered by Senators Fanning and Chafin to the bill (S. B. No. 1006), and on this question, Senator Fanning demanded the yeas and nays.

The roll being taken, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Fanning, Foster, Green, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sybolt, Tucker, Unger, Williams, Wills, Yost and Kessler (Acting President)—32.

The nays were: None.

Absent: Wells and Tomblin (Mr. President)—2.

So, a majority of those present and voting having voted in the affirmative, the Acting President declared the amendments offered by Senators Fanning and Chafin to the bill adopted.

The bill, as just amended, was ordered to engrossment.

Engrossed Senate Bill No. 1006 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Barnes, Beach, Boley, Browning, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall,

Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Tucker, Unger, Williams, Wills, Yost and Kessler (Acting President)—28.

The nays were: Chafin, Fanning, Helmick and Sypolt—4.

Absent: Wells and Tomblin (Mr. President)—2.

So, a majority of all the members present and voting having voted in the affirmative, the Acting President declared the bill (Eng. S. B. No. 1006) passed with its title.

Senator Unger moved that the bill take effect from passage.

On this question, the yeas were: Barnes, Beach, Boley, Browning, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Tucker, Unger, Williams, Wills, Yost and Kessler (Acting President)—28.

The nays were: Chafin, Fanning, Helmick and Sypolt—4.

Absent: Wells and Tomblin (Mr. President)—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the Acting President declared the bill (Eng. S. B. No. 1006) takes effect from passage.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Pending announcement of meetings of standing and select committees of the Senate, including a majority party caucus,

On motion of Senator Unger, the Senate recessed until 5 p.m. today.

Upon expiration of the recess, the Senate reconvened and, at the request of Senator Unger, unanimous consent being granted, returned to the fourth order of business.

Senator Prezioso, from the Committee on Finance, submitted the following report, which was received:

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Your Committee on Finance has had under consideration

Senate Bill No. 1001, Reducing consumers sales and service tax on food and food ingredients.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill No. 1001 (originating in the Committee on Finance)—A Bill to amend and reenact §11-15-3a and §11B-2-20 of the Code of West Virginia, 1931, as amended, all relating generally to the consumers sales and service tax and the Revenue Shortfall Reserve Fund; specifying reduction in consumers sales and service tax on sales, purchases and uses of food and food ingredients intended for human consumption; specifying contingent reduction of the consumers sales and service tax on sales, purchases and uses of food and food ingredients intended for human consumption based on specified levels of funding in the Revenue Shortfall Reserve Fund; specifying contingent termination of the consumers sales and service tax on sales, purchases and uses of food and food ingredients intended for human consumption based on specified levels of funding in the Revenue Shortfall Reserve Fund; specifying maximum aggregate funding amount for the Revenue Shortfall Reserve Fund; and providing for effective dates.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Roman W. Prezioso, Jr.,
Chair.

At the request of Senator Prezioso, unanimous consent being granted, the bill (Com. Sub. for S. B. No. 1001) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time and ordered to second reading.

On motion of Senator Unger, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

Absent: Fanning, Helmick, Tucker, Wells and Tomblin (Mr. President)—5.

The bill was read a second time and ordered to engrossment and third reading.

Engrossed Committee Substitute for Senate Bill No. 1001 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

Absent: Fanning, Helmick, Tucker, Wells and Tomblin (Mr. President)—5.

So, a majority of all the members present and voting having voted in the affirmative, the Acting President declared the bill (Eng. Com. Sub. for S. B. No. 1001) passed with its title.

Senator Unger moved that the bill take effect from passage.

On this question, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

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Absent: Fanning, Helmick, Tucker, Wells and Tomblin (Mr. President)—5.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the Acting President declared the bill (Eng. Com. Sub. for S. B. No. 1001) takes effect from passage.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Senator Prezioso, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill No. 1002 (originating in the Committee on Economic Development), Dedicating portion of coal severance tax to county of origin.

And reports back a committee substitute for same with the following title:

Com. Sub. for Com. Sub. for Senate Bill No. 1002 (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-13A-6a, relating to reallocating and dedicating five percent of coal severance tax revenues up to \$20 million annually to the coal-producing counties of origin to be phased in over a five-year period after accounting for the revenues dedicated to other funds; establishing state and local coal county reallocated severance tax funds and providing for distribution of the moneys to the county commissions by the State Treasurer; establishing amounts each coal-producing county to receive; requiring the creation of local funds into which moneys to be deposited; requiring moneys be expended solely for economic development projects and infrastructure projects; providing definitions; providing restrictions on the expenditure of moneys; providing duties of State Tax Commissioner; requiring report of expenditures to Joint Committee on Government and Finance; providing audits of distributed funds when authorized by the Joint Committee on Government and Finance; and authorizing legislative and emergency rules.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Roman W. Prezioso, Jr.,
Chair.

At the request of Senator Prezioso, unanimous consent being granted, the bill (Com. Sub. for Com. Sub. for S. B. No. 1002) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time and ordered to second reading.

On motion of Senator Unger, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

Absent: Fanning, Helmick, Tucker, Wells and Tomblin (Mr. President)—5.

The bill was read a second time and ordered to engrossment and third reading.

Engrossed Committee Substitute for Committee Substitute for Senate Bill No. 1002 was then read a third time and put upon its passage.

Pending extended discussion,

The question being "Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill No. 1002 pass?"

On the passage of the bill, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, Foster, Green, Hall,

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Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Kessler (Acting President)—28.

The nays were: K. Facemyer—1.

Absent: Fanning, Helmick, Tucker, Wells and Tomblin (Mr. President)—5.

So, a majority of all the members present and voting having voted in the affirmative, the Acting President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. No. 1002) passed with its title.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Senator Prezioso, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Bill No. 1003, Clarifying requirement for deposit and transfer of higher education proceeds from real property.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Roman W. Prezioso, Jr.,
Chair.

At the request of Senator Prezioso, unanimous consent being granted, the bill (S. B. No. 1003) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time and ordered to second reading.

On motion of Senator Unger, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

Absent: Fanning, Helmick, Tucker, Wells and Tomblin (Mr. President)—5.

The bill was read a second time and ordered to engrossment and third reading.

Engrossed Senate Bill No. 1003 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

Absent: Fanning, Helmick, Tucker, Wells and Tomblin (Mr. President)—5.

So, a majority of all the members present and voting having voted in the affirmative, the Acting President declared the bill (Eng. S. B. No. 1003) passed.

The following amendment to the title of the bill, from the Committee on Finance, was reported by the Clerk and adopted:

Eng. Senate Bill No. 1003—A Bill to amend and reenact §18B-19-10 of the Code of West Virginia, 1931, as amended, relating to proceeds from the sale, lease, conveyance or other disposal of real property that is used jointly by state institutions of higher education or for statewide programs under the jurisdiction of the Higher Education Policy Commission or the Council for Community and Technical College Education.

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Senator Unger moved that the bill take effect from passage.

On this question, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

Absent: Fanning, Helmick, Tucker, Wells and Tomblin (Mr. President)—5.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the Acting President declared the bill (Eng. S. B. No. 1003) takes effect from passage.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Senator Prezioso, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Bill No. 1004, Making supplementary appropriation of unappropriated moneys to various accounts.

Senate Bill No. 1005, Supplementing, amending and increasing appropriations to Department of Transportation.

And,

Senate Bill No. 1007, Making supplementary appropriation of unappropriated moneys to Secretary of State.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Roman W. Prezioso, Jr.,
Chair.

At the request of Senator Prezioso, unanimous consent being granted, Senate Bill No. 1004 contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time and ordered to second reading.

On motion of Senator Unger, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

Absent: Fanning, Helmick, Tucker, Wells and Tomblin (Mr. President)—5.

The bill was read a second time and ordered to engrossment and third reading.

Engrossed Senate Bill No. 1004 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

Absent: Fanning, Helmick, Tucker, Wells and Tomblin (Mr. President)—5.

So, a majority of all the members elected to the Senate having voted in the affirmative, the Acting President declared the bill (Eng. S. B. No. 1004) passed with its title.

Senator Unger moved that the bill take effect from passage.

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On this question, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

Absent: Fanning, Helmick, Tucker, Wells and Tomblin (Mr. President)—5.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the Acting President declared the bill (Eng. S. B. No. 1004) takes effect from passage.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

At the request of Senator Prezioso, unanimous consent being granted, Senate Bill No. 1005 contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time and ordered to second reading.

On motion of Senator Unger, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

Absent: Fanning, Helmick, Tucker, Wells and Tomblin (Mr. President)—5.

The bill was read a second time and ordered to engrossment and third reading.

Engrossed Senate Bill No. 1005 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

Absent: Fanning, Helmick, Tucker, Wells and Tomblin (Mr. President)—5.

So, a majority of all the members elected to the Senate having voted in the affirmative, the Acting President declared the bill (Eng. S. B. No. 1005) passed with its title.

Senator Unger moved that the bill take effect from passage.

On this question, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

Absent: Fanning, Helmick, Tucker, Wells and Tomblin (Mr. President)—5.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the Acting President declared the bill (Eng. S. B. No. 1005) takes effect from passage.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

At the request of Senator Prezioso, unanimous consent being granted, Senate Bill No. 1007 contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time and ordered to second reading.

On motion of Senator Unger, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

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On suspending the constitutional rule, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

Absent: Fanning, Helmick, Tucker, Wells and Tomblin (Mr. President)—5.

The bill was read a second time and ordered to engrossment and third reading.

Engrossed Senate Bill No. 1007 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

Absent: Fanning, Helmick, Tucker, Wells and Tomblin (Mr. President)—5.

So, a majority of all the members elected to the Senate having voted in the affirmative, the Acting President declared the bill (Eng. S. B. No. 1007) passed with its title.

Senator Unger moved that the bill take effect from passage.

On this question, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

Absent: Fanning, Helmick, Tucker, Wells and Tomblin (Mr. President)—5.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the Acting President declared the bill (Eng. S. B. No. 1007) takes effect from passage.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Unger.

Pending announcement of a meeting of a select committee of the Senate,

On motion of Senator Unger, the Senate adjourned until tomorrow, Thursday, August 4, 2011, at 5 p.m.

THURSDAY, AUGUST 4, 2011

The Senate met at 5 p.m.

(Senator Kessler, Acting President, in the Chair.)

Prayer was offered by the Reverend Dick Corbin, Director of Church Relations, Union Mission of West Virginia, Charleston, West Virginia.

Pending the reading of the Journal of Wednesday, August 3, 2011,

On motion of Senator Edgell, the Journal was approved and the further reading thereof dispensed with.

Senator Kessler (Acting President) presented a communication from the Board of Occupational Therapy, submitting its biennial report for fiscal years 2010 and 2011 as required by chapter thirty, article one, section twelve of the code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate proceeded to the fifth order of business.

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Senator Unger, from the Select Committee on Redistricting, submitted the following report, which was received:

Your Select Committee on Redistricting has had under consideration

Senate Bill No. 1008 (originating in the Select Committee on Redistricting)—A Bill to amend and reenact §1-2-2b and §1-2-3 of the Code of West Virginia, 1931, as amended, all relating to the composition of congressional districts; providing for congressional districts; and requiring incidental precinct boundary changes.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

John R. Unger II,
Chair.

At the request of Senator Unger, unanimous consent being granted, the bill (S. B. No. 1008) contained in the preceding report from the Select Committee on Redistricting was taken up for immediate consideration, read a first time and ordered to second reading.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Snyder.

Thereafter, at the request of Senator Stollings, and by unanimous consent, the remarks by Senator Snyder were ordered printed in the Appendix to the Journal.

The Senate next proceeded to the thirteenth order of business.

At the respective requests of Senators Fanning, Tucker and Helmick, unanimous consent being granted, it was ordered that the Journal show had Senators Fanning, Tucker and Helmick been present in the chamber on yesterday, Wednesday, August 3, 2011, each would have voted "yea" on the passage of Engrossed Committee Substitute for Senate Bill No. 1001, Engrossed Committee Substitute for Senate Bill No. 1002, Engrossed Senate

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Bill No. 1003, Engrossed Senate Bill No. 1004, Engrossed Senate Bill No. 1005 and Engrossed Senate Bill No. 1007.

Senator Unger then moved that the Senate adjourn until tomorrow, Friday, August 5, 2011, at 11 a.m.

The question being on the adoption of Senator Unger's aforestated motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Barnes, Beach, Boley, Browning, Edgell, D. Facemire, Fanning, Foster, Green, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Tucker, Unger, Williams, Wills, Yost and Kessler (Acting President)—30.

The nays were: None.

Absent: Chafin, K. Facemyer, Wells and Tomblin (Mr. President)—4.

So, a majority of those present and voting having voted in the affirmative, the Acting President declared Senator Unger's motion had prevailed.

In accordance with the foregoing motion, the Senate adjourned until tomorrow, Friday, August 5, 2011, at 11 a.m.

FRIDAY, AUGUST 5, 2011

The Senate met at 11 a.m.

(Senator Kessler, Acting President, in the Chair.)

Prayer was offered by the Reverend Jerry Kliner, Cross of Grace Lutheran Church, Hurricane, West Virginia.

Pending the reading of the Journal of Thursday, August 4, 2011,

On motion of Senator Plymale, the Journal was approved and the further reading thereof dispensed with.

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Senator Unger then moved that the Senate recess until 4 p.m. today.

The question being on the adoption of Senator Unger's aforesated motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Tucker, Unger, Williams, Wills, Yost and Kessler (Acting President)—31.

The nays were: None.

Absent: Fanning, Wells and Tomblin (Mr. President)—3.

So, a majority of those present and voting having voted in the affirmative, the Acting President declared Senator Unger's motion had prevailed.

In accordance with the foregoing motion, the Senate recessed until 4 p.m. today.

Upon expiration of the recess, the Senate reconvened and proceeded to the ninth order of business.

Senate Bill No. 1008, Reapportioning congressional districts.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Snyder, the following amendment to the bill was reported by the Clerk:

On page two, section three, by striking out all of lines eleven through seventeen and inserting in lieu thereof the following:

First District: Barbour, Brooke, Doddridge, Gilmer, Hancock, Harrison, Jackson, Marion, Marshall, Monongalia, Ohio, Pleasants, Preston, Ritchie, Roane, Taylor, Tyler, Wetzels, Wirt and Wood.

Second District: Berkeley, Braxton, Calhoun, Clay, Grant, Hampshire, Hardy, Jefferson, Kanawha, Lewis, Mineral, Morgan, Pendleton, Putnam, Randolph, Tucker and Upshur.

Following extended discussion,

The question being on the adoption of Senator Snyder's amendment to the bill (S. B. No. 1008), and on this question, Senator Barnes demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Browning, Edgell, D. Facemire, Laird, Miller, Prezioso, Snyder, Stollings, Unger, Williams, Wills, Yost and Kessler (Acting President)—14.

The nays were: Barnes, Boley, Chafin, K. Facemyer, Fanning, Foster, Green, Hall, Helmick, Jenkins, Klempa, McCabe, Minard, Nohe, Palumbo, Sypolt and Tucker—17.

Absent: Plymale, Wells and Tomblin (Mr. President)—3.

So, a majority of those present and voting not having voted in the affirmative, the Acting President declared Senator Snyder's amendment to the bill (S. B. No. 1008) rejected.

Thereafter, at the request of Senator Browning, and by unanimous consent, the remarks by Senators Snyder and Unger regarding the adoption of Senator Snyder's amendment to Senate Bill No. 1008 were ordered printed in the Appendix to the Journal.

At the request of Senator Barnes, unanimous consent being granted, the remarks by Senators Hall, McCabe and K. Facemyer regarding the adoption of Senator Snyder's amendment to Senate Bill No. 1008 were ordered printed in the Appendix to the Journal.

The bill (S. B. No. 1008) was then ordered to engrossment and third reading.

On motion of Senator Unger, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Fanning, Foster, Green, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Prezioso, Stollings, Sypolt, Tucker, Unger, Williams, Wills, Yost and Kessler (Acting President)—30.

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The nays were: Snyder—1.

Absent: Plymale, Wells and Tomblin (Mr. President)—3.

Engrossed Senate Bill No. 1008 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Senate Bill No. 1008 pass?”

On the passage of the bill, the yeas were: Barnes, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Fanning, Foster, Green, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Minard, Nohe, Palumbo, Prezioso, Stollings, Sypolt, Tucker, Williams, Wills, Yost and Kessler (Acting President)—27.

The nays were: Beach, Miller, Snyder and Unger—4.

Absent: Plymale, Wells and Tomblin (Mr. President)—3.

So, a majority of all the members present and voting having voted in the affirmative, the Acting President declared the bill (Eng. S. B. No. 1008) passed with its title.

Senator Unger moved that the bill take effect from passage.

On this question, the yeas were: Barnes, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Fanning, Foster, Green, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Minard, Nohe, Palumbo, Prezioso, Stollings, Sypolt, Tucker, Williams, Wills, Yost and Kessler (Acting President)—27.

The nays were: Beach, Miller, Snyder and Unger—4.

Absent: Plymale, Wells and Tomblin (Mr. President)—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the Acting President declared the bill (Eng. S. B. No. 1008) takes effect from passage.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

In accordance with rule number forty-four of the Rules of the Senate, Senator Unger will file a written vote explanation as to the

passage of Engrossed Senate Bill No. 1008, which vote explanation will be printed in the Appendix to the Journal.

At the request of Senator Browning, and by unanimous consent, the remarks by Senator Unger regarding the passage of Engrossed Senate Bill No. 1008 were ordered printed in the Appendix to the Journal.

At the request of Senator Unger, unanimous consent being granted, it was ordered that the following be printed in the Appendix to the Journal: A transcript of the August 4, 2011, meeting of the Select Committee on Redistricting; Population Summary Report, Plan Components Report and Measures of Compactness of the various congressional plans considered by the Select Committee; and an article by Kenneth C. Martis, Ph.D., Professor of Geography, West Virginia University, entitled "West Virginia Congressional Redistricting, Mason County Flop Plan".

On motion of Senator Unger, the Senate recessed until 7 p.m. tonight.

Night Session

Upon expiration of the recess, the Senate reconvened and, without objection, returned to the third order of business.

A message from The Clerk of the House of Delegates announced the passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. House Bill No. 106—A Bill to amend and reenact §1-2-2 and §1-2-2b of the Code of West Virginia, 1931, as amended, all relating to the apportionment of membership of the House of Delegates.

At the request of Senator Unger, and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

On motion of Senator Unger, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

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On suspending the constitutional rule, the yeas were: Beach, Boley, Browning, Edgell, D. Facemire, Fanning, Foster, Green, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Miller, Nohe, Palumbo, Prezioso, Snyder, Stollings, Sypolt, Tucker, Unger, Williams, Wills, Yost and Kessler (Acting President)—27.

The nays were: Barnes—1.

Absent: Chafin, K. Facemyer, Minard, Plymale, Wells and Tomblin (Mr. President)—6.

The bill (Eng. H. B. No. 106) was then read a second time.

On motion of Senator Sypolt, the following amendment to the bill was reported by the Clerk:

In section two, subsection (b), by striking out all of subdivisions (53), (54) and (55) and inserting in lieu thereof three new subdivisions, designated subdivisions (53), (54) and (55), to read as follows:

(53) The Fifty-third Delegate District is entitled to one delegate and consists of:

(A) Grant County;

(B) The following areas of Mineral County:

(i) Blocks	540570105003068,	540570105003069,
	540570105003070,	540570105003071,
	540570105003072,	540570105003073,
	540570105003074,	540570105003075,
	540570105003076,	540570105003077,
	540570105003078,	540570105003079,
	540570105003080,	540570105003081,
	540570105003082,	540570105003083,
	540570105003084,	540570105003085,
	540570105004002,	540570105004003,
	540570105004004,	540570105004005,
	540570105004006,	540570105004007,
	540570105004008,	540570105004009,
	540570105004010,	540570105004011,
	540570105004012,	540570105004013,
	540570105004014,	540570105004015,
	540570105004016,	540570105004017,
	540570105004018,	540570105004019,
	540570105004020,	540570105004021,
	540570105004022,	540570105004023,
	540570105004024,	540570105004025,
	540570105004026,	540570105004027,
	540570105004028,	540570105004029,
	540570105004030,	540570105004031,
	540570105004032,	540570105004033,
	540570105004034,	540570105004035,
		540570105004036,

540570105004037, 540570105004038, 540570105004039,
 540570105004040, 540570105004042, 540570105004045,
 540570105004049 and 540570105004050 of voting district 27;

(ii) Voting districts 28, 29, 3, 30 and 33;

(iii) Blocks 540570104003000, 540570104003001,
 540570104003002, 540570104003003, 540570104003004,
 540570104003005, 540570104003006, 540570104003007,
 540570104003008, 540570104003009, 540570104003021,
 540570104003022, 540570104003023, 540570104003060,
 540570104003061, 540570104003062, 540570104003063,
 540570104003064, 540570104003065, 540570104003066,
 540570104003067, 540570104003068, 540570104003069,
 540570104003070, 540570104003071, 540570104003072,
 540570104003073, 540570104003074, 540570104003075,
 540570104003076, 540570104003077, 540570104003078,
 540570104003079, 540570104003080, 540570104003081,
 540570104003082, 540570104003083, 540570104003084,
 540570104003085, 540570104003086, 540570104003087,
 540570104003088, 540570104003089, 540570104003090,
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 540570104003105, 540570104003106, 540570104003107,
 540570104003108, 540570104003110, 540570104003111,
 540570104003112, 540570104003113, 540570104003114,
 540570104003115, 540570104003116, 540570104003117,
 540570104003118, 540570104003119, 540570104003120,
 540570104003121, 540570104003122, 540570104003132,
 540570104003133, 540570104003134, 540570104003135,
 540570104003136, 540570104003137, 540570104003138,
 540570104003141, 540570104003142, 540570104003143
 and 540570104003146 of voting district 34;

(iv) Blocks 540570104003018, 540570104003019,
 540570104003020, 540570104003024, 540570104003025,
 540570104003028, 540570104003029, 540570104003030,
 540570104003031, 540570104003034, 540570104003035,
 540570104003036, 540570104003037, 540570104003038,
 540570104003039, 540570104003040, 540570104003041,
 540570104003042, 540570104003043, 540570104003044,

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540570104003045, 540570104003046, 540570104003047,
 540570104003048, 540570104003049, 540570104003050,
 540570104003051, 540570104003052, 540570104003053,
 540570104003054, 540570104003055, 540570104003056,
 540570104003057, 540570104003058, 540570104003059,
 540570104003096, 540570104003097, 540570104003098,
 540570104003100, 540570104003101, 540570104003102,
 540570104003103, 540570104003104, 540570104003109,
 540570104003123, 540570104003124, 540570104003125,
 540570104003126, 540570104003127, 540570104003128,
 540570104003129, 540570104003130, 540570104003131,
 540570104003139 and 540570104003140 of voting district 35;

(v) Voting districts 6 and 8; and

(C) The following areas of Pendleton County:

(i) Voting districts 13, 14, 15 and 3; and

(ii) Blocks 540719705001000, 540719705001001,
 540719705001002, 540719705001003, 540719705001004,
 540719705001005, 540719705001006, 540719705001007,
 540719705001008, 540719705001009, 540719705001010,
 540719705001011, 540719705001012, 540719705001013,
 540719705001014, 540719705001016, 540719705001017,
 540719705001018, 540719705001019, 540719705001020,
 540719705001021, 540719705001024, 540719705001025,
 540719705001026, 540719705001027, 540719705001028,
 540719705001029, 540719705001030, 540719705001031,
 540719705001032, 540719705001033, 540719705001034,
 540719705001035, 540719705001036, 540719705001037,
 540719705001038, 540719705001039, 540719705001040,
 540719705001041, 540719705001042, 540719705001043,
 540719705001044, 540719705001045, 540719705001046,
 540719705001047, 540719705001048, 540719705001049,
 540719705001050, 540719705001051, 540719705001052,
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 540719705001056, 540719705001057, 540719705001058,
 540719705001059, 540719705001060, 540719705001061,
 540719705001062, 540719705001063, 540719705001064,
 540719705001065, 540719705001066, 540719705001067,
 540719705001068, 540719705001069, 540719705001071,

540719705001075,	540719705001077,	540719705001078,
540719705001079,	540719705001080,	540719705001081,
540719705001082,	540719705001083,	540719705001084,
540719705001085,	540719705001086,	540719705001087,
540719705001088,	540719705001089,	540719705001090,
540719705001091,	540719705001092,	540719705001093,
540719705001094,	540719705001095,	540719705001096,
540719705001097,	540719705001098,	540719705001099,
540719705001100,	540719705001101,	540719705001102,
540719705001103,	540719705001104,	540719705001105,
540719705001106,	540719705001107,	540719705001108,
540719705001109,	540719705001110,	540719705001111,
540719705001112,	540719705001113,	540719705001114,
540719705001115,	540719705001116,	540719705001117,
540719705001118,	540719705001119,	540719705001120,
540719705001121,	540719705001122,	540719705001123,
540719705001124,	540719705001125,	540719705001126,
540719705001127,	540719705001128,	540719705001129,
540719705001130,	540719705001131,	540719705001132,
540719705001135,	540719705001157,	540719705001158,
540719705001159,	540719705001160,	540719705001161,
540719705001162,	540719705001168,	540719705001169,
540719705001170,	540719705001171,	540719705001172,
540719705001173,	540719705001174,	540719705001177,
540719705001179,	540719705001185,	540719705001220,
540719705001225,	540719705001241,	540719705001242,
540719705001243,	540719705001244,	540719705001245,
540719705001246,	540719705001249,	540719705001313,
540719705001315,	540719705001317,	540719705001318,
540719705001319,	540719705001324,	540719705001325,
540719705001326,	540719705001327,	540719705001328,
540719705001329,	540719705001330,	540719705001331,

540719705001332 and 540719705001333 of voting district 8.

(54) The Fifty-fourth Delegate District is entitled to one delegate and consists of:

(A) Hardy County; and

(B) The following areas of Pendleton County:

(i) Voting districts 1, 11, 12, 2, 5, 6 and 7;

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(ii) Blocks 540719705001015, 540719705001022,
 540719705001023, 540719705001076, 540719705001175,
 540719705001176, 540719705001178, 540719705001180,
 540719705001181, 540719705001182, 540719705001183,
 540719705001184, 540719705001186, 540719705001187,
 540719705001188, 540719705001189, 540719705001190,
 540719705001191, 540719705001192, 540719705001193,
 540719705001194, 540719705001195, 540719705001196,
 540719705001197, 540719705001198, 540719705001199,
 540719705001200, 540719705001203, 540719705001205,
 540719705001209, 540719705001210, 540719705001211,
 540719705001212, 540719705001213, 540719705001221,
 540719705001228, 540719705001229, 540719705001230,
 540719705001231, 540719705001234, 540719705001235,
 540719705001236, 540719705001239, 540719705001240,
 540719705001295 and 540719705001314 of voting district 8; and

(iii) Voting district 9.

(55) The Fifty-fifth Delegate District is entitled to one delegate and consists of:

The following areas of Mineral County:

(i) Voting districts 1, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 2, 20, 21, 22, 23, 24, 25 and 26;

(ii) Blocks 540570105004000, 540570105004001,
 540570105004004, 540570105004006, 540570105004007,
 540570105004009, 540570105004011, 540570105004012,
 540570105004013 and 540570105004014 of voting district 27;

(iii) Voting district 31;

(iv) Blocks 540570104003010, 540570104003011,
 540570104003012, 540570104003013, 540570104003014,
 540570104003015, 540570104003016, 540570104003017,
 540570104003144 and 540570104003145 of voting district 34;

(v) Blocks 540570104003026, 540570104003027,
 540570104003032 and 540570104003033 of voting district 35; and

(vi) Voting districts 4 and 5.

The question being on the adoption of Senator Sypolt's amendment to the bill (Eng. H. B. No. 106), the same was put and did not prevail.

On motion of Senator Barnes, the following amendment to the bill was next reported by the Clerk:

In section two, subsection (b), by striking out all of subdivisions (56), (57), (58), (59), (60), (61), (62) and (63) and inserting in lieu thereof eight new subdivisions, designated subdivisions (56), (57), (58), (59), (60), (61), (62) and (63), to read as follows:

(56) The Fifty-sixth Delegate District is entitled to one delegate and consists of:

(A) The following areas of Hampshire County:

(i) Voting district 10;

(ii) Blocks 540279682001088, 540279682001116, 540279682001117, 540279682001119, 540279682001120, 540279682001121, 540279682002000, 540279682002001, 540279682002002, 540279682002003, 540279682002004, 540279682002006, 540279682002007, 540279682002008, 540279682002009, 540279682002010, 540279682002011, 540279682002012, 540279682002013, 540279682002014, 540279682002015, 540279682002016, 540279682002017, 540279682002018, 540279682002019, 540279682002020, 540279682002021, 540279682002023, 540279682002024, 540279682002025, 540279682002026, 540279682002027, 540279682002028, 540279682002029, 540279682002030, 540279682002031, 540279682002032, 540279682002033, 540279682002043, 540279682002044, 540279682002046, 540279682002060, 540279682002063, 540279682004117, 540279682004118, 540279682004119, 540279682004120 and 540279682004121 of voting district 11;

(iii) Voting districts 12, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26 and 28;

(iv) Block 540279682003100 of voting district 7;

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(v) Blocks 540279682001084, 540279682001085,
 540279682001086, 540279682001087, 540279682001089,
 540279682002005, 540279682003043, 540279682003044,
 540279682003046, 540279682003069, 540279682003070,
 540279682003071, 540279682003073, 540279682003074,
 540279682003075, 540279682003076, 540279682003078,
 540279682003079, 540279682003080, 540279682003081,
 540279682003082, 540279682003084, 540279682003085,
 540279682003086, 540279682003093, 540279682003094,
 540279682003095, 540279682003096, 540279682003097,
 540279682003099, 540279682003101, 540279682003113,
 540279682003114, 540279682003118, 540279683003032,
 540279683003033, 540279683003034, 540279683003035,
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 540279683003063, 540279683003067, 540279683003094,
 540279683003095, 540279683003096, 540279683003162,
 540279683003163, 540279683003164, 540279683003165,
 540279683003166, 540279683003167, 540279683003168,
 540279683003169, 540279683003170, 540279683003171,
 540279683003172, 540279683003173, 540279683003174,
 540279683003175, 540279683003176 and 540279683003193 of
 voting district 8;

(vi) Voting district 9; and

(B) The following areas of Mineral County:

Voting districts 32, 7 and 9.

(57) The Fifty-seventh Delegate District is entitled to one delegate and consists of:

(A) The following areas of Hampshire County:

(i) Blocks 540279682001118, 540279682001129,
 540279682001130, 540279682002022, 540279682002034,

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540279682002035, 540279682002036, 540279682002037,
 540279682002038, 540279682002039, ~~540279682002040~~,
 540279682002041, 540279682002042, 540279682002045,
 540279682002047, 540279682002048, 540279682002049,
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 540279682002108, 540279682002109, 540279682002110,
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 540279682002114, 540279682002115, 540279682002116,
 540279682002117, 540279682002119, 540279682002120,
 540279682004101, 540279682004102, 540279682004103,
 540279682004104, 540279682004105, 540279682004106 and
 540279682004107 of voting district 11;

(ii) Voting districts 2, 21, 4 and 6;

(iii) Blocks 540279682001000, 540279682001001,
 540279682001002, 540279682001003, 540279682001004,
 540279682001005, 540279682001006, 540279682001007,
 540279682001008, 540279682001009, 540279682001010,
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 540279682001023, 540279682001024, 540279682001025,
 540279682001026, 540279682001027, 540279682001028,
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540279682001032, 540279682001033, 540279682001034,
 540279682001035, 540279682001036, 540279682001037,
 540279682001038, 540279682001039, 540279682001040,
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 540279682004004, 540279682004005, 540279682004006,
 540279682004007, 540279682004008, 540279682004009,
 540279682004010, 540279682004011, 540279682004012,
 540279682004013, 540279682004014, 540279682004015,
 540279682004016, 540279682004017, 540279682004043,
 540279682004111, 540279682004115, 540279682004116
 and 540279682004122 of voting district 7; and

(vi) Blocks 540279682003083, 540279682003098, 540279682003106 and 540279682003110 of voting district 8; and

(B) The following areas of Morgan County:

(i) Blocks 540659707001052, 540659707003000, 540659707003001, 540659707003002, 540659707003003, 540659707003004, 540659707003005, 540659707003006, 540659707003007, 540659707003008, 540659707003009, 540659707003010, 540659707003011, 540659707003013, 540659707003014, 540659707003015, 540659707003017, 540659707003018, 540659707003019, 540659707003024, 540659707003028, 540659707003029, 540659707003030, 540659707003031, 540659707003032, 540659707003033, 540659707003034, 540659707003035, 540659707003036, 540659707003037, 540659707003038, 540659707003039, 540659707003040, 540659707003041, 540659707003042, 540659707003043, 540659707003044, 540659707003045, 540659707003046, 540659707003047, 540659707003048, 540659707003049, 540659707003050, 540659707003051, 540659707003052, 540659707003053, 540659707003054, 540659707003055, 540659707003056, 540659707003057, 540659707003058, 540659707003059, 540659707003060, 540659707003061, 540659707003062, 540659707003063, 540659707003064, 540659707003065, 540659707003069, 540659707003070, 540659707003071, 540659707003072, 540659707003073, 540659707003094, 540659707003095 and 540659707003096 of voting district 1;

(ii) Voting districts 13, 18, 2 and 23;

(iii) Blocks 540659708002000, 540659708002001, 540659708002002, 540659708002003, 540659708002004, 540659708002005, 540659708002006, 540659708002007, 540659708002009, 540659708002010, 540659708002011, 540659708002012, 540659708002013, 540659708002015, 540659708002016, 540659708002019, 540659708002021, 540659708002022, 540659708002023, 540659708002024, 540659708002026, 540659708002029, 540659708002030, 540659708002033, 540659708002034, 540659708002035, 540659708002036, 540659708002037, 540659708002038, 540659708002039, 540659708002054, 540659708002055,

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540659708002056, 540659708002057, 540659708002072,
 540659708002073, 540659708002074, 540659708002075,
 540659708002076, 540659708002077, 540659708002080,
 540659708002085, 540659710002005, 540659710002014,
 540659710002015, 540659710002016, 540659710002017,
 540659710002018, 540659710002019, 540659710002021,
 540659710002022, 540659710002023, 540659710002024,
 540659710002029, 540659710002044, 540659710002075
 and 540659710002176 of voting district 6; and

(iv) Voting districts 7 and 8.

(58) The Fifty-eighth Delegate District is entitled to one delegate and consists of:

(A) The following areas of Berkeley County:

(i) Blocks 540039712015004 and 540039718001042 of voting district 38;

(ii) Blocks 540039712014000, 540039712014001, 540039712014005, 540039712014006, 540039712014010, 540039712014013, 540039712014015, 540039712014016, 540039712014021, 540039712014022, 540039712014053 and 540039712022041 of voting district 40; and

(iii) Voting districts 41, 42, 44, 45, 47 and 48; and

(B) The following areas of Morgan County:

(i) Blocks 540659707003066, 540659707003067, 540659707003068, 540659707003074, 540659707003075, 540659707003081, 540659707003082, 540659707003083, 540659707003084, 540659707003085, 540659707003086, 540659707003087, 540659707003088, 540659707003089, 540659707003097, 540659710001004, 540659710001006, 540659710001007 and 540659710001011 of voting district 1;

(ii) Voting districts 21, 24, 25, 4 and 5; and

(iii) Blocks 540659708002040, 540659708002041, 540659708002042, 540659708002043, 540659708002044, 540659708002045, 540659708002046, 540659708002047,

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540659708002048, 540659708002049, 540659708002050,
 540659708002051, 540659708002052, 540659708002053,
 540659708002063, 540659708002064, 540659708002065,
 540659708002066, 540659708002067, 540659708002068,
 540659708002069, 540659708002070, 540659708002071,
 540659708002079, 540659708002081, 540659708002082,
 540659708002083, 540659708002084, 540659710002000,
 540659710002001, 540659710002002, 540659710002003,
 540659710002004, 540659710002006, 540659710002007,
 540659710002008, 540659710002009, 540659710002010,
 540659710002011, 540659710002013 and 540659710002174 of
 voting district 6.

(59) The Fifty-ninth Delegate District is entitled to one delegate
 and consists of:

The following areas of Berkeley County:

(i) Voting districts 32 and 33;

(ii) Blocks 540039719003007, 540039719003008,
 540039719003009, 540039719003010, 540039719003011,
 540039719003012, 540039719003013, 540039719003014,
 540039719003015, 540039719003016, 540039719003017,
 540039719003018, 540039719003020, 540039719003022,
 540039719003023, 540039719003024, 540039719003025,
 540039719003026, 540039719003027, 540039719004000,
 540039719004001, 540039719004002, 540039719004003,
 540039719004004, 540039719004005, 540039719004008,
 540039719004009, 540039719004022, 540039721024000
 and 540039721024002 of voting district 34;

(iii) Voting district 36;

(iv) Blocks 540039721022010, 540039721022011,
 540039721022012, 540039721022013, 540039721022014,
 540039721022015, 540039721022016, 540039721022017,
 540039721022018, 540039721022019, 540039721022020,
 540039721022021, 540039721022022, 540039721022023,
 540039721022024, 540039721022025, 540039721022033,
 540039721022034, 540039721022035, 540039721022036,
 540039721026004, 540039721026005, 540039721026006,

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540039721026007, 540039721026008, 540039721026010,
 540039721026011, 540039721026012, 540039721026013,
 540039721026014, 540039721026015, 540039721026017,
 540039721026018, 540039721026019, 540039721026020,
 540039721026021, 540039721026022, 540039721026023,
 540039721026024, 540039721026025, 540039721026026,
 540039721026027, 540039721026028, 540039721026029,
 540039721026030, 540039721026031, 540039721026032,
 540039721026033, 540039721026041 and 540039721026056 of
 voting district 37; and

(v) Voting districts 43, 46 and 51.

(60) The Sixtieth Delegate District is entitled to one delegate and consists of:

The following areas of Berkeley County:

(i) Blocks 540039717002002, 540039717002003,
 540039717002004, 540039717002005, 540039717002009,
 540039717002014, 540039717004001, 540039717004002,
 540039717004003, 540039717004005, 540039717004007,
 540039717004008, 540039717004009, 540039717004010,
 540039717004011, 540039717004012, 540039717004013,
 540039717004023, 540039717004024, 540039717004025,
 540039717004026, 540039717004027, 540039717004032,
 540039717004036, 540039717004037, 540039717004038,
 540039717004039, 540039717004040, 540039717004041,
 540039717004042, 540039717004043, 540039717004044,
 540039717004045, 540039717005004, 540039717005005,
 540039717005006, 540039717005007, 540039717005008,
 540039717005009, 540039717005010, 540039717005011,
 540039717005012, 540039717005013, 540039717005014,
 540039717005015, 540039717005016, 540039717005025,
 540039717006004, 540039717006005, 540039717006006,
 540039717006007, 540039717006008, 540039717006009,
 540039717006010, 540039717006011, 540039717006012,
 540039717006013, 540039717006014, 540039717006015,
 540039717006016, 540039717006017, 540039717006018,
 540039717006019, 540039717006020, 540039717006021,
 540039717006022, 540039717006023, 540039717006024,

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540039717006034, 540039717007004, 540039717007005,
 540039717007006, 540039717007009, 540039717007010,
 540039717007011, 540039717007012, 540039717007013,
 540039717007015, 540039717007016, 540039717007017,
 540039717007020, 540039717007021, 540039717007022,
 540039717007023, 540039717007028, 540039717007029,
 540039717007032 and 540039719002022 of voting district 1;

(ii) Blocks 540039713003015, 540039713003016,
 540039713003018, 540039713003020, 540039713003021,
 540039713003023, 540039713003024, 540039713003025,
 540039713003026, 540039713003031, 540039713003053,
 540039716001031, 540039716001032, 540039716002003,
 540039716002004, 540039716002005, 540039716002006,
 540039716002007, 540039716002008, 540039716002009,
 540039716002010, 540039716002011, 540039716002012,
 540039716002015, 540039716002016, 540039716002017,
 540039716002018, 540039716002033, 540039716002034,
 540039716002035, 540039716002036, 540039716002037,
 540039716003000, 540039716003001 and 540039716003002 of
 voting district 10;

(iii) Voting districts 11 and 14;

(iv) Blocks 540039713003032, 540039713003033,
 540039713003035, 540039713003036, 540039713003037,
 540039713003048, 540039713003049, 540039713004052,
 540039713004053, 540039713004057, 540039713004058,
 540039713004059, 540039713004060, 540039716001002,
 540039716001003, 540039716001010 and 540039716001016 of
 voting district 15;

(v) Blocks 540039714002022, 540039714002023,
 540039714005015, 540039714005016, 540039714005017,
 540039714005018, 540039714005019, 540039714005020,
 540039714005021, 540039714005023, 540039714005024,
 540039714005025, 540039714005026, 540039714005027,
 540039714005029, 540039714005030, 540039715001000,
 540039715001001, 540039715001002, 540039715001003,
 540039715001004, 540039715001009, 540039715001010,
 540039715001011 and 540039715001012 of voting district 15A;

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(vi) Blocks 540039714002014, 540039714002015, 540039714002026, 540039714002027 and 540039714005006 of voting district 16;

(vii) Blocks 540039714005028, 540039715001006, 540039715001007, 540039715001008, 540039715001015, 540039715001016, 540039715001017, 540039715001018, 540039715001019, 540039715001020, 540039715001021, 540039715001022, 540039715001023, 540039715001024, 540039715001025, 540039715001026, 540039715001027, 540039715001028, 540039715001029, 540039715001030, 540039715001031, 540039715001032, 540039715001033, 540039715001034, 540039715001035, 540039715001036, 540039715001037, 540039715001038, 540039715001039, 540039715001040, 540039715001041, 540039715001042, 540039715001043, 540039715001044, 540039715001045, 540039715001046, 540039715001047, 540039715001048, 540039715001049, 540039715001050, 540039715001051, 540039715001052, 540039715001053, 540039715001054, 540039715001055, 540039715001056, 540039715001057, 540039715001058, 540039715001059, 540039715001060, 540039715002000, 540039715002001, 540039715002002, 540039715002003, 540039715002004, 540039715002005, 540039715002006, 540039715002007, 540039715002008, 540039715002009, 540039715002010, 540039715002012, 540039715002013, 540039715002014, 540039715002016 and 540039715002017 of voting district 17;

(viii) Voting district 2;

(ix) Blocks 540039712015016, 540039712015017, 540039712015018, 540039712015023, 540039712015024, 540039712015025, 540039716003009, 540039716003010, 540039717004000, 540039719002000, 540039719002001, 540039719002002, 540039719002003, 540039719002004, 540039719002005, 540039719002006, 540039719002007, 540039719002008, 540039719002009, 540039719002010, 540039719002011, 540039719002012, 540039719002014, 540039719002015, 540039719002016, 540039719002017, 540039719002018, 540039719002019, 540039719002020, 540039719002021, 540039719002023, 540039719002024,

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540039719002025, 540039719002026, 540039719002027,
 540039719002028, 540039719002029, 540039719002030,
 540039719002031, 540039719002032, 540039719002033,
 540039719002034, 540039719002035, 540039719002036,
 540039719002037, 540039719002038, 540039719002039,
 540039719002040, 540039719002041, 540039719002042,
 540039719002043, 540039719002044, 540039719002047,
 540039719002048, 540039719002049, 540039719002050,
 540039719002051 and 540039719002052 of voting district 22;

(x) Blocks 540039715004038, 540039719005016,
 540039720001005, 540039720001006, 540039720001009,
 540039720001013, 540039720001020, 540039720001021,
 540039720001022, 540039720001024 and 540039720001049 of
 voting district 24;

(xi) Blocks 540039714003018, 540039714003019,
 540039715003031 and 540039720001001 of voting district 28;

(xii) Block 540039713003027 of voting district 38;

(xiii) Blocks 540039715003027, 540039715003028,
 540039715003029, 540039715003030, 540039715004000,
 540039715004001, 540039715004002, 540039715004003,
 540039715004004, 540039715004005, 540039715004006,
 540039715004007, 540039715004008, 540039715004009,
 540039715004010, 540039715004011, 540039715004012,
 540039715004013, 540039715004014, 540039715004015,
 540039715004016, 540039715004017, 540039715004018,
 540039715004019, 540039715004020, 540039715004027,
 540039715004028, 540039715004029, 540039715004030,
 540039715004031, 540039715004036, 540039715004039,
 540039717001015, 540039717001016, 540039717001018,
 540039717001019, 540039717001020, 540039717001021,
 540039717005017, 540039717005018, 540039717005019,
 540039717005020, 540039717005021, 540039717005022,
 540039717005023, 540039717005024, 540039717006000,
 540039717006001, 540039717006002, 540039717006003,
 540039717006027, 540039717006028, 540039717006029,
 540039717006030, 540039717006031, 540039717006032,
 540039717006033, 540039717007000, 540039720001003,
 540039720001004, 540039720001007, 540039720001008,

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540039720001019, 540039720001023, 540039720001025,
 540039720001026, 540039720001034, 540039720001035,
 540039720001036, 540039720001046 and 540039720001047 of
 voting district 5; and

(xiv) Voting districts 6, 7, 8 and 9.

(61) The Sixty-first Delegate District is entitled to one delegate
 and consists of:

The following areas of Berkeley County:

(i) Blocks 540039713003017, 540039713003022 and
 540039713003028 of voting district 10;

(ii) Blocks 540039713003013 and 540039716001015 of voting
 district 15;

(iii) Voting districts 19, 20 and 21;

(iv) Blocks 540039712013016, 540039712015000,
 540039712015001, 540039712015002, 540039712015003,
 540039712015008, 540039712015009, 540039712015010,
 540039712015011, 540039712015012, 540039712015013,
 540039712015014, 540039712015015, 540039712015019,
 540039712015020, 540039712015021, 540039712015022,
 540039712015028, 540039713003001, 540039713003002,
 540039713003003, 540039713003004, 540039713003005,
 540039713003006, 540039713003010, 540039713003011,
 540039713003012, 540039713003014, 540039713003019,
 540039713003029, 540039713003030, 540039713003050,
 540039713003051, 540039713003052, 540039713003057,
 540039716002000, 540039716002001, 540039716002002,
 540039718001057, 540039718001066, 540039718001068
 and 540039719002013 of voting district 38;

(v) Voting district 39; and

(vi) Blocks 540039711022012, 540039711022013,
 540039711022014, 540039711022015, 540039711022016,
 540039711022017, 540039711022018, 540039711022019,
 540039711022020, 540039711022021, 540039711022022,
 540039711022023, 540039711022024, 540039711022025,

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540039711022026,	540039711022027,	540039711022028,
540039711022029,	540039711022030,	540039711022031,
540039711022032,	540039711022033,	540039711022034,
540039711022035,	540039711022036,	540039711022038,
540039711022039,	540039711022040,	540039711022041,
540039711022042,	540039711022043,	540039711022044,
540039711022045,	540039711022046,	540039711022047,
540039711022048,	540039711022049,	540039711022050,
540039711022051,	540039711022052,	540039711022056,
540039711022061,	540039711022062,	540039711022063,
540039711022064,	540039711022065,	540039711022066,
540039711022067,	540039711022068,	540039711022069,
540039711022070,	540039711022071,	540039711022072,
540039711022073,	540039711022074,	540039711022075,
540039711022076,	540039711022077,	540039712011000,
540039712011001,	540039712011002,	540039712011003,
540039712011004,	540039712011005,	540039712011006,
540039712011007,	540039712011008,	540039712011009,
540039712011010,	540039712011011,	540039712011012,
540039712011013,	540039712011014,	540039712011015,
540039712011016,	540039712011017,	540039712011018,
540039712011019,	540039712011020,	540039712011021,
540039712011022,	540039712011023,	540039712011024,
540039712011025,	540039712011026,	540039712011027,
540039712011028,	540039712011029,	540039712011030,
540039712011031,	540039712011032,	540039712011033,
540039712011034,	540039712011035,	540039712011036,
540039712011037,	540039712011038,	540039712011039,
540039712011040,	540039712011041,	540039712011042,
540039712011043,	540039712011044,	540039712011045,
540039712011046,	540039712011047,	540039712011048,
540039712011049,	540039712011050,	540039712011051,
540039712011052,	540039712011053,	540039712011054,
540039712011055,	540039712011056,	540039712011057,
540039712011058,	540039712011059,	540039712011060,
540039712011061,	540039712011062,	540039712011063,
540039712011064,	540039712011065,	540039712011066,
540039712011067,	540039712011068,	540039712011069,
540039712012000,	540039712012001,	540039712012002,
540039712012007,	540039712012019,	540039712012020,

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540039712012023, 540039712012024, 540039712012026,
 540039712012027, 540039712012028, 40039712012029,
 540039712012032, 540039712012033, 540039712012034,
 540039712012035, 540039712012036, 540039712012038,
 540039712012039, 540039712012040, 540039712012041,
 540039712014002, 540039712014003, 540039712014004,
 540039712014007, 540039712014009, 540039712014011,
 540039712014014, 540039712014017 and 540039712014064 of
 voting district 40.

(62) The Sixty-second Delegate District is entitled to one
 delegate and consists of:

The following areas of Berkeley County:

(i) Blocks 540039713003043, 540039713004049,
 540039716001000 and 540039716001001 of voting district 15;

(ii) Blocks 540039714002020, 540039714002024,
 540039714002025, 540039714005009, 540039714005010,
 540039714005022, 540039715001005, 540039715001013
 and 540039715001014 of voting district 15A;

(iii) Blocks 540039713003044, 540039713003045,
 540039713003046, 540039713003047, 540039713003054,
 540039714002000, 540039714002001, 540039714002002,
 540039714002003, 540039714002004, 540039714002005,
 540039714002006, 540039714002007, 540039714002008,
 540039714002009, 540039714002010, 540039714002011,
 540039714002012, 540039714002013, 540039714002016,
 540039714002017, 540039714002018, 540039714002019,
 540039714002021, 540039714002028, 540039714002029,
 540039714005000, 540039714005001, 540039714005002,
 540039714005003, 540039714005004, 540039714005005,
 540039714005007, 540039714005008, 540039714005011,
 540039714005012, 540039714005013, 540039714005014
 and 540039714005031 of voting district 16;

(iv) Blocks 540039715002018, 540039715002021,
 540039715002023, 540039715002024 and 540039715002039 of
 voting district 17;

(v) Voting districts 18 and 23;

(vi) Blocks 540039720003000, 540039720003001, 540039720003003, 540039720003004, 540039720003006, 540039720003007, 540039720003008, 540039720003009, 540039720006000 and 540039720006002 of voting district 24;

(vii) Voting districts 26 and 27;

(viii) Blocks 540039713001011, 540039713001012, 540039713001014, 540039713001015, 540039713001016, 540039713001017, 540039713001018, 540039713001019, 540039713001020, 540039713001021, 540039713001022, 540039713001023, 540039713001024, 540039713001025, 540039713001026, 540039713001027, 540039713001028, 540039713001029, 540039713001030, 540039713001031, 540039713001032, 540039713001033, 540039713001034, 540039713001038, 540039713001039, 540039713001040, 540039713001041, 540039713001042, 540039713001043, 540039713001044, 540039714003000, 540039714003001, 540039714003002, 540039714003003, 540039714003004, 540039714003005, 540039714003006, 540039714003007, 540039714003008, 540039714003009, 540039714003010, 540039714003011, 540039714003012, 540039714003013, 540039714003014, 540039714003015, 540039714003016, 540039714003017, 540039714003020, 540039714003021, 540039714003022, 540039714003023, 540039714003024, 540039714003025, 540039714003026, 540039714003027, 540039714003028, 540039714003029, 540039714003030, 540039714003031, 540039714003032, 540039714003033, 540039714003034, 540039714003035, 540039714003036, 540039714003037, 540039714003038, 540039714003039, 540039715002019, 540039715002020, 540039715002022, 540039715002025, 540039715002026, 540039715002034, 540039715002040, 540039715003032 and 540039720001000 of voting district 28; and

(ix) Voting district 49.

(63) The Sixty-third Delegate District is entitled to one delegate and consists of:

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The following areas of Berkeley County:

(i) Blocks 540039717006025, 540039717006026, 540039717007007 and 540039717007018 of voting district 1;

(ii) Blocks 540039717004004, 540039717004006, 540039719002045, 540039719003000, 540039719003001, 540039719003002, 540039719005019, 540039719005021, 540039719005022, 540039719005023, 540039719005024, 540039719005025, 540039719005026, 540039719005027, 540039719005028, 540039719005031, 540039719005032, 540039719005033, 540039719005034 and 540039719005036 of voting district 22;

(iii) Blocks 540039715004021, 540039715004022, 540039715004023, 540039715004024, 540039715004025, 540039715004026, 540039715004032, 540039715004037, 540039717007002, 540039717007003, 540039717007008, 540039717007014, 540039717007019, 540039717007024, 540039717007025, 540039717007026, 540039717007027, 540039717007030, 540039717007031, 540039717007033, 540039719005000, 540039719005001, 540039719005002, 540039719005003, 540039719005004, 540039719005005, 540039719005006, 540039719005007, 540039719005008, 540039719005009, 540039719005010, 540039719005011, 540039719005012, 540039719005013, 540039719005014, 540039719005015, 540039719005017, 540039719005018, 540039719005020, 540039719005029, 540039719005030, 540039719005066, 540039719005067, 540039720001010, 540039720001011, 540039720001012, 540039720001014, 540039720001016, 540039720001017, 540039720001027, 540039720001028, 540039720001029, 540039720001030, 540039720001031, 540039720001032, 540039720001033, 540039720001038, 540039720001039, 540039720001040, 540039720001041, 540039720001042, 540039720001043, 540039720001044, 540039720001045, 540039720001048, 540039720003002, 540039720003005, 540039720003010, 540039720003011, 540039720003012, 540039720003013, 540039720003014, 540039720003015, 540039720003016, 540039720003017, 540039720003018, 540039720003019, 540039720003020, 540039720003021, 540039720003022,

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540039720003023, 540039720003024, 540039720003025,
 540039720003026, 540039720003027, 540039720003028,
 540039720003029, 540039720003030, 540039720003031,
 540039720003032, 540039720003033, 540039720003034,
 540039720003041, 540039720003042, 540039720003048,
 540039720006001, 540039720006003, 540039720006004,
 540039720006005, 540039720006006, 540039720006007,
 540039720006008, 540039720006009, 540039720006010,
 540039720006011, 540039720006012, 540039720006013,
 540039720006014, 540039720006015, 540039720006016,
 540039720006017, 540039720006018, 540039720006019,
 540039720006020, 540039720006021, 540039720006022,
 540039720006023, 540039720006024, 540039720006025,
 540039720006026, 540039720006027, 540039720006028,
 540039720006029, 540039720006030, 540039720006031,
 540039720006032, 540039720006033 and 540039720006034 of
 voting district 24;

(iv) Voting districts 25, 25A, 29 and 31;

(v) Blocks 540039719001006, 540039719001010,
 540039719001011, 540039719001012, 540039719001013,
 540039719001014, 540039719001015, 540039719001016,
 540039719001017, 540039719001018, 540039719001019
 and 540039719001020 of voting district 34;

(vi) Voting district 35;

(vii) Blocks 540039719004007, 540039719004010,
 540039721025000, 540039721025001, 540039721025002,
 540039721025003, 540039721025004, 540039721025005,
 540039721025006, 540039721025007, 540039721025008,
 540039721025009, 540039721025010, 540039721025011,
 540039721025012, 540039721025013, 540039721025014,
 540039721025015, 540039721025016, 540039721025017,
 540039721025018, 540039721026000, 540039721026001,
 540039721026002, 540039721026003, 540039721026034,
 540039721026035, 540039721026036, 540039721026039
 and 540039721026040 of voting district 37;

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(viii) Blocks 540039715004033, 540039715004034, 540039715004035, 540039717007001, 540039720001015, 540039720001018 and 540039720001037 of voting district 5; and

(ix) Voting district 50.

Following discussion,

The question being on the adoption of the amendment offered by Senator Barnes to the bill (Eng. H. B. No. 106), the same was put and did not prevail.

Thereafter, at the request of Senator Sypolt, and by unanimous consent, the remarks by Senator Barnes regarding the adoption of the amendment offered by Senator Barnes to Engrossed House Bill No. 106 were ordered printed in the Appendix to the Journal.

The bill was ordered to third reading.

Engrossed House Bill No. 106 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Chafin, Edgell, D. Facemire, Fanning, Foster, Helmick, Jenkins, Klempa, Laird, McCabe, Miller, Palumbo, Prezioso, Snyder, Stollings, Tucker, Unger, Williams, Wills, Yost and Kessler (Acting President)—22.

The nays were: Barnes, Boley, Browning, Green, Hall, Nohe and Sypolt—7.

Absent: K. Facemyer, Minard, Plymale, Wells and Tomblin (Mr. President)—5.

So, a majority of all the members present and voting having voted in the affirmative, the Acting President declared the bill (Eng. H. B. No. 106) passed with its title.

Senator Unger moved that the bill take effect from passage.

On this question, the yeas were: Beach, Boley, Browning, Chafin, Edgell, D. Facemire, Fanning, Foster, Green, Hall, Jenkins, Klempa, Laird, McCabe, Miller, Palumbo, Prezioso, Snyder, Stollings, Tucker, Unger, Williams, Wills, Yost and Kessler (Acting President)—25.

The nays were: Barnes, Helmick, Nohe and Sypolt—4.

Absent: K. Facemyer, Minard, Plymale, Wells and Tomblin (Mr. President)—5.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the Acting President declared the bill (Eng. H. B. No. 106) takes effect from passage.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Pending announcement of a majority party caucus,

On motion of Senator Unger, the Senate recessed until 9 p.m. tonight.

Upon expiration of the recess, the Senate reconvened and resumed business under the third order.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Com. Sub. for Senate Bill No. 1002,
Dedicating portion of coal severance tax to county of origin.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill No. 1003, Clarifying requirement for deposit and transfer of higher education proceeds from real property.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill No. 1004, Making supplementary appropriation of unappropriated moneys to various accounts.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill No. 1005, Supplementing, amending and increasing appropriations to Department of Transportation.

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A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill No. 1006, Reapportioning senatorial districts.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill No. 1007, Making supplementary appropriation of unappropriated moneys to Secretary of State.

A message from The Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Senate Bill No. 1008, Reapportioning congressional districts.

On motion of Senator Unger, the message on the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On pages one and two, by striking out all of section two-b and inserting in lieu thereof a new section, designated section two-b, to read as follows:

§1-2-2b. Precinct boundary changes.

If an election precinct of this state includes territory contained in more than one senatorial or delegate district, as such senatorial districts are established by section one of this article and as such delegate districts are established by section two of this article, the county commission of the county in which the precinct is located shall, prior to January 21, 2012, alter the boundary lines of its election precincts so that no precinct contains territory included in more than one senatorial or delegate district.

On motion of Senator Unger, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Senate Bill No. 1008, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, Fanning, Foster, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Miller, Nohe, Palumbo, Prezioso, Snyder, Stollings, Sypolt, Tucker, Williams, Wills, Yost and Kessler (Acting President)—27.

The nays were: Unger—1.

Absent: K. Facemyer, Green, Minard, Plymale, Wells and Tomblin (Mr. President)—6.

So, a majority of all the members elected to the Senate having voted in the affirmative, the Acting President declared the bill (Eng. S. B. No. 1008) passed with its title.

Senator Unger moved that the bill take effect from passage.

On this question, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, Fanning, Foster, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Miller, Nohe, Palumbo, Prezioso, Snyder, Stollings, Sypolt, Tucker, Williams, Wills, Yost and Kessler (Acting President)—27.

The nays were: Unger—1.

Absent: K. Facemyer, Green, Minard, Plymale, Wells and Tomblin (Mr. President)—6.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the Acting President declared the bill (Eng. S. B. No. 1008) takes effect from passage.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate.

A message from The Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House

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of Delegates amended title, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill No. 1001, Reducing consumers sales and service tax on food and food ingredients.

On motion of Senator Unger, the message on the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting section and inserting in lieu thereof the following:

CHAPTER 11. TAXATION.

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-3a. Rate of tax on food and food ingredients intended for human consumption; reductions and cessations of tax.

(a) *Rate of tax on food and food ingredients.* — Notwithstanding any provision of this article or article fifteen-a of this chapter to the contrary, ~~the~~

(1) *Rate reduction.* - The rate of tax on sales, purchases and uses of food and food ingredients intended for human consumption after June 30, 2008, shall be three percent of its sales price, as defined in section two, article fifteen-b of this chapter: ~~Provided, That the~~

(2) *Additional rate reduction.* - The rate of tax on sales, purchases and uses of food and food ingredients as defined in ~~said~~ that section that is intended for human consumption after December 31, 2011, shall be two percent of its sales price, as defined in ~~said~~ that section. After June 30, 2012, the rate of tax on sales, purchases and uses of food and food ingredients as defined in that section that is intended for human consumption shall be one percent of its sales price, as defined in that section.

(3) Contingent termination of tax on food. - The tax on sales, purchases and uses of food and food ingredients as defined in section two, article fifteen-b of this chapter that is intended for human consumption shall cease after June 30, 2013, and no such tax shall be imposed on sales, purchases and uses of food and food ingredients so defined: Provided, That the cessation of tax after June 30, 2013, authorized by this subsection shall be suspended if the balance of funds as of December 31, 2012, in the Revenue Shortfall Reserve Fund established in section twenty, article two, chapter eleven-b of this code does not equal or exceed twelve and one-half percent of the General Revenue Fund budgeted for the fiscal year commencing July 1, 2012. Such suspension shall terminate, and the cessation of tax shall proceed, beginning on July 1 of any calendar year beginning after December 31, 2013, in which the balance of funds as of December 31 of the preceding fiscal year in said Revenue Shortfall Reserve Fund equals or exceeds twelve and one-half percent of the General Revenue Fund budgeted for the immediately succeeding fiscal year.

(b) *Calculation of tax on fractional parts of a dollar.* - The tax computation under this section shall be carried to the third decimal place and the tax rounded up to the next whole cent whenever the third decimal place is greater than four and rounded down to the lower whole cent whenever the third decimal place is four or less. The seller may elect to compute the tax due on a transaction on a per item basis or on an invoice basis provided the method used is consistently used during the reporting period.

(c) *Federal Food Stamp and Women, Infants and Children programs, other exemptions.* - Nothing in this section ~~shall affect~~ affects application of the exemption from tax provided in section nine of this article for food purchased by an eligible person using food stamps, electronic benefits transfer cards or vouchers issued by or pursuant to authorization of the United States Department of Agriculture to individuals participating in the Federal Food Stamp Program, by whatever name called, or the Women, Infants and Children (WIC) program, or application of any other exemption from tax set forth in this article or article fifteen-a of this chapter.

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CHAPTER 11B. DEPARTMENT OF REVENUE.

ARTICLE 2. STATE BUDGET OFFICE.

§11B-2-20. Reduction of appropriations; powers of Governor;
Revenue Shortfall Reserve Fund and
permissible expenditures therefrom.

(a) Notwithstanding any provision of this section, the Governor may reduce appropriations according to any of the methods set forth in sections twenty-one and twenty-two of this article. The Governor may, in lieu of imposing a reduction in appropriations, request an appropriation by the Legislature from the Revenue Shortfall Reserve Fund established in this section.

(b) A Revenue Shortfall Reserve Fund is hereby continued within the State Treasury. The Revenue Shortfall Reserve Fund shall be funded continuously and on a revolving basis in accordance with this subsection up to an aggregate amount not to exceed thirteen percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended. The Revenue Shortfall Reserve Fund shall be funded as set forth in this subsection from surplus revenues, if any, in the State Fund, General Revenue, as the surplus revenues may accrue from time to time. Within sixty days of the end of each fiscal year, the secretary shall cause to be deposited into the Revenue Shortfall Reserve Fund such amount of the first fifty percent of all surplus revenues, if any, determined to have accrued during the fiscal year just ended, The Revenue Shortfall Reserve Fund shall be funded continuously and on a revolving basis in accordance with this subsection up to an aggregate amount not to exceed ten percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended; as may be necessary to bring the balance of the Revenue Shortfall Reserve Fund to thirteen percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended. If at the end of any fiscal year the Revenue Shortfall Reserve Fund is funded at an amount equal to or exceeding ~~ten~~ thirteen percent of the State's General Revenue Fund budget for the fiscal year just ended, then there shall be no further ~~obligation of deposit by~~ obligation of deposit by the secretary under the provisions of this section to ~~apply~~ apply of any surplus revenues as set forth in this

subsection until that time the Revenue Shortfall Reserve Fund balance is less than ~~ten~~ thirteen percent of the total appropriations from the State Fund, General Revenue.

(c) Not earlier than November 1 of each calendar year, if the state's fiscal circumstances are such as to otherwise trigger the authority of the Governor to reduce appropriations under this section or section twenty-one or twenty-two of this article, then in that event the Governor may notify the presiding officers of both houses of the Legislature in writing of his or her intention to convene the Legislature pursuant to section nineteen, article VI of the Constitution of West Virginia for the purpose of requesting the introduction of a supplementary appropriation bill or to request a supplementary appropriation bill at the next preceding regular session of the Legislature to draw money from the surplus Revenue Shortfall Reserve Fund to meet any anticipated revenue shortfall. If the Legislature fails to enact a supplementary appropriation from the Revenue Shortfall Reserve Fund during any special legislative session called for the purposes set forth in this section or during the next preceding regular session of the Legislature, then the Governor may proceed with a reduction of appropriations pursuant to sections twenty-one and twenty-two of this article. Should any amount drawn from the Revenue Shortfall Reserve Fund pursuant to an appropriation made by the Legislature prove insufficient to address any anticipated shortfall, then the Governor may also proceed with a reduction of appropriations pursuant to sections twenty-one and twenty-two of this article.

(d) Upon the creation of the fund, the Legislature is authorized and may make an appropriation from the Revenue Shortfall Reserve Fund for revenue shortfalls, for emergency revenue needs caused by acts of God or natural disasters or for other fiscal needs as determined solely by the Legislature.

(e) Prior to the thirty-first day of October in any fiscal year in which revenues are inadequate to make timely payments of the state's obligations, the Governor may by executive order, after first notifying the presiding officers of both houses of the Legislature in writing, borrow funds from the Revenue Shortfall Reserve Fund. The amount of funds borrowed under this subsection shall not exceed one and one-half percent of the general revenue estimate

for the fiscal year in which the funds are to be borrowed, or the amount the Governor determines is necessary to make timely payment of the state's obligations, whichever is less. Any funds borrowed pursuant to this subsection shall be repaid, without interest, and redeposited to the credit of the Revenue Shortfall Reserve Fund within ninety days of their withdrawal.

(f) There is hereby created in the State Treasury the Revenue Shortfall Reserve Fund – Part B. The Revenue Shortfall Reserve Fund – Part B shall consist of moneys transferred from the West Virginia Tobacco Settlement Medical Trust Fund pursuant to the provisions of section two, article eleven-a, chapter four of this code, repayments made of the loan from the West Virginia Tobacco Settlement Medical Trust Fund to the Physician's Mutual Insurance Company pursuant to the provisions of article twenty-f, chapter thirty-three of this code, and all interest and other return earned on the moneys in the Revenue Shortfall Reserve Fund – Part B. Moneys in the Revenue Shortfall Reserve Fund – Part B may be expended solely for the purposes set forth in subsection (d) of this section, subject to the following conditions:

(1) No moneys in the Revenue Shortfall Reserve Fund – Part B nor any interest or other return earned thereon may be expended for any purpose unless all moneys in the Revenue Shortfall Reserve Fund described in subsection (b) of this section have first been expended, except that the interest or other return earned on moneys in the Revenue Shortfall Reserve Fund – Part B may be expended as provided in subdivision (2) of this subsection; and

(2) Notwithstanding any other provision of this section to the contrary, the Legislature may appropriate any interest and other return earned thereon that may accrue on the moneys in the Revenue Shortfall Reserve Fund – Part B after June 30, 2025, for expenditure for the purposes set forth in section three, article eleven-a, chapter four of this code; and

(3) Any appropriation made from Revenue Shortfall Reserve Fund – Part B shall be made only in instances of revenue shortfalls or fiscal emergencies of an extraordinary nature.

(g) Subject to the conditions upon expenditures from the Revenue Shortfall Reserve Fund – Part B prescribed in subsection (f) of this

section, in appropriating moneys pursuant to the provisions of this section, the Legislature may in any fiscal year appropriate from the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B a total amount up to, but not exceeding, ten percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended.

(h) (1) Of the moneys in the Revenue Shortfall Reserve Fund, \$100 million, or such greater amount as may be certified as necessary by the director of the budget for the purposes of subsection (e) of this section, shall be made available to the West Virginia Board of Treasury Investments for management and investment of the moneys in accordance with the provisions of article six-c, chapter twelve of this code. All other moneys in the Revenue Shortfall Reserve Fund shall be made available to the West Virginia Investment Management Board for management and investment of the moneys in accordance with the provisions of article six, chapter twelve of this code. Any balance of the Revenue Shortfall Reserve Fund including accrued interest and other return earned thereon at the end of any fiscal year shall not revert to the General Fund but shall remain in the Revenue Shortfall Reserve Fund for the purposes set forth in this section.

(2) All of the moneys in the Revenue Shortfall Reserve Fund – Part B shall be made available to the West Virginia Investment Management Board for management and investment of the moneys in accordance with the provisions of article six, chapter twelve of this code. Any balance of the Revenue Shortfall Reserve Fund – Part B, including accrued interest and other return earned thereon at the end of any fiscal year, shall not revert to the General Fund but shall remain in the Revenue Shortfall Reserve Fund – Part B for the purposes set forth in this section.;

And,

Eng. Com. Sub. for Senate Bill No. 1001—A Bill to amend and reenact §11-15-3a of the Code of West Virginia, 1931, as amended; and to amend and reenact §11B-2-20 of said code, all relating generally to the consumers sales and service tax and the Revenue Shortfall Reserve Fund; specifying reduction in consumers sales and service tax on sales, purchases and uses of food and food

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ingredients intended for human consumption; specifying contingent elimination of the consumers sales and service tax on sales, purchases and uses of food and food ingredients intended for human consumption bases on specified levels of funding in the Revenue Shortfall Reserve Fund; and specifying maximum aggregate funding amount for the Revenue Shortfall Reserve Fund.

Senator Unger moved that the Senate concur in the House of Delegates amendments to the bill.

Following discussion,

The question being on the adoption of Senator Unger's aforestated motion, the same was put and prevailed.

Thereafter, at the request of Senator Snyder, and by unanimous consent, the remarks by Senator Prezioso regarding the adoption of Senator Unger's aforestated motion were ordered printed in the Appendix to the Journal.

Engrossed Committee Substitute for Senate Bill No. 1001, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, Fanning, Foster, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Prezioso, Snyder, Stollings, Sypolt, Tucker, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

Absent: K. Facemyer, Green, Plymale, Wells and Tomblin (Mr. President)—5.

So, a majority of all the members elected to the Senate having voted in the affirmative, the Acting President declared the bill (Eng. Com. Sub. for S. B. No. 1001) passed with its House of Delegates amended title.

Senator Unger moved that the bill take effect from passage.

On this question, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, Fanning, Foster, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo,

Prezioso, Snyder, Stollings, Sypolt, Tucker, Unger, Williams, Wills, Yost and Kessler (Acting President)—29.

The nays were: None.

Absent: K. Facemyer, Green, Plymale, Wells and Tomblin (Mr. President)—5.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the Acting President declared the bill (Eng. Com. Sub. for S. B. No. 1001) takes effect from passage.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Unger.

Senator Unger offered the following pre-adjournment resolution:

Senate Resolution No. 104—Raising a committee to notify the House of Delegates the Senate is ready to adjourn *sine die*.

Resolved by the Senate:

That the Acting President be authorized to appoint a committee of three to notify the House of Delegates that the Senate has completed its labors and is ready to adjourn *sine die*.

At the request of Senator Unger, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Senator Kessler (Acting President), under the provisions of the foregoing resolution, appointed the following committee to notify the House of Delegates of impending Senate adjournment:

Senators Laird, Klempa and Nohe.

Subsequently, Senator Laird reported that the duties assigned by Senate Resolution No. 104 had been performed.

Thereafter, a three-member delegation from the House of Delegates, namely

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Delegates Hall, Craig and Martin, announced that that body also had completed its labors and was ready to adjourn *sine die*.

Senator Unger then offered the following resolution:

Senate Resolution No. 105—Raising a committee to notify His Excellency, the Governor, that the Legislature is ready to adjourn *sine die*.

Resolved by the Senate:

That the Acting President be authorized to appoint a committee of three to join with a similar committee of the House of Delegates to notify His Excellency, the Governor, that the Legislature has completed its labors and is ready to adjourn *sine die*.

At the request of Senator Unger, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Under the provisions of the foregoing resolution, Senator Kessler (Acting President) appointed the following committee to notify His Excellency, the Governor, that the Senate was ready to adjourn:

Senators Miller, Stollings and Hall.

Delegates Staggers, Walker and Border, then announced that they had been appointed by that body to join with the similar committee named by the Senate to wait upon His Excellency and were ready to proceed with this assignment.

Senators Miller, Stollings and Hall, comprising the Senate committee, then joined the House committee and proceeded to the executive offices to notify His Excellency, the Governor, of imminent adjournment of this extraordinary session of the Legislature.

Subsequently, Senator Miller, from the joint select committee to notify His Excellency, the Governor, that the Legislature had completed the business of this extraordinary session and was ready to adjourn *sine die*, returned to the chamber and was recognized by the Acting President. Senator Miller then reported this mission accomplished.

At the request of Senator Miller, unanimous consent being granted, the Joint Committee on Enrolled Bills was granted permission, after it has examined, found truly enrolled and presented to His Excellency, the Governor, for his action, bills passed but not presented to him prior to adjournment of this first extraordinary session of the eightieth Legislature in the year two thousand eleven, to file its reports with the Clerk and that the same be included in the Journal of the last day of the session; and also, that any communications from His Excellency, the Governor, as to his action on bills after adjournment of the session, be included in the Journal.

In accordance with the foregoing unanimous consent agreement, the following reports of the Joint Committee on Enrolled Bills were filed as follows:

Senator Miller, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 10th day of August, 2011, presented to His Excellency, the Governor, for his action, the following bills, signed by the Acting President of the Senate and the Speaker of the House of Delegates:

(S. B. No. 1004), Making supplementary appropriation of unappropriated moneys to various accounts.

(S. B. No. 1005), Supplementing, amending and increasing appropriations to Department of Transportation.

And,

(S. B. No. 1007), Making supplementary appropriation of unappropriated moneys to Secretary of State.

Respectfully submitted,

Ronald F. Miller,
Chair, Senate Committee.

Michael T. Ferro,
Vice Chair, House Committee.

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Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 17th day of August, 2011, presented to His Excellency, the Governor, for his action, the following bills, signed by the Acting President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. No. 1001), Reducing consumers sales and service tax on food and food ingredients.

(Com. Sub. for Com. Sub. for S. B. No. 1002), Dedicating portion of coal severance tax to county of origin.

(S. B. No. 1003), Clarifying requirement for deposit and transfer of higher education proceeds from real property.

(S. B. No. 1006), Reapportioning senatorial districts.

(S. B. No. 1008), Reapportioning congressional districts.

And,

(H. B. No. 106), Reapportioning the House of Delegates districts.

Respectfully submitted,

Ronald F. Miller,
Chair, Senate Committee.
Meshea L. Poore,
Chair, House Committee.

Executive Communications

Under authorization of Senate approval therefor in prior proceedings today, to include in this day's Journal communications showing the Governor's action on enrolled bills presented to him in post-session reports, the following are inserted hereinafter:

The Clerk then presented communications from His Excellency, the Governor, advising that on August 10, 2011, he had approved **Enr. Senate Bill No. 1004**, **Enr. Senate Bill No. 1005** and **Enr. Senate Bill No. 1007**; on August 18, 2011, he had approved **Enr. Senate Bill No. 1006** and **Enr. Senate Bill No. 1008**; and on August 23, 2011, he had approved **Enr. Committee Substitute for Senate**

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[August 5

**Bill No. 1001, Enr. Committee Substitute for Committee Substitute
for Senate Bill No. 1002 and Enr. Senate Bill No. 1003.**

Veto Messages

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

August 17, 2011

The Honorable Natalie E. Tennant
Secretary of State
State Capitol
Charleston, West Virginia

Dear Ms. Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill No. 106.

In enacting this legislation, the House of Delegates assigned certain voting districts and census blocks to more than one Delegate District. Accordingly, a portion of the boundaries of the Thirty-Second and Thirty-Sixth Delegate Districts and a portion of the Fifty-Eighth and Fifty-Ninth Delegate Districts, respectively, overlap one another.

These technical errors constitute fatal flaws and, therefore, I must veto Enrolled House Bill No. 106.

Very truly yours,

Earl Ray Tomblin,
Governor.

cc: The Honorable Richard Thompson

The Honorable Jeffrey V. Kessler

On motion of Senator Unger, the first extraordinary session of the Senate in the year two thousand eleven adjourned *sine die*.

HISTORY OF BILLS AND RESOLUTIONS CONSIDERED BY SENATE

(This symbol * indicates Committee Substitutes.)

ALL SENATE BILLS INTRODUCED

(This digest embraces the complete bill list submitted.
If passed, all effective ninety days from passage unless otherwise indicated.)

- *1001. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Reducing consumers sales and service tax on food and food ingredients** - Introduced 8/1/11 - To Finance - Com. sub. reported 8/3/11 - Constitutional rule suspended - Passed Senate 8/3/11 - Effective from passage - To House 8/4/11 - Reference dispensed - Amended - Passed House 8/5/11 - Title amended - Effect from passage - House reconsidered effective date and passage - Read 2nd time 8/5/11 - Amended - Read 3rd time 8/5/11 - Passed House 8/5/11 - Title amended - Effect from passage - Senate concurred in House amendment and passed bill 8/5/11 - Effective from passage - To Governor 8/17/11 - Approved by Governor 8/23/11 - Chapter 7, Acts, 1st Extraordinary Session, 2011
- *1002. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Dedicating portion of coal severance tax to county of origin** - Introduced 8/1/11 - To Economic Development then Finance - Com. sub. reported 8/2/11 - On 2nd reading to Finance 8/2/11 - Com. sub. for com. sub. reported 8/3/11 - Constitutional rule suspended - Passed Senate 8/3/11 - To House 8/4/11 - Reference dispensed - Passed House 8/5/11 - To Governor 8/17/11 - Approved by Governor 8/23/11 - Chapter 8, Acts, 1st Extraordinary Session, 2011
- 1003. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Clarifying requirement for deposit and transfer of higher education proceeds from real property** - Introduced 8/1/11 - To Finance - Constitutional rule suspended - Passed Senate with amended title 8/3/11 - Effective from passage - To House 8/4/11 - Reference dispensed - Passed House 8/5/11 - Effect from passage - To Governor 8/17/11 - Approved by Governor 8/23/11 - Chapter 4, Acts, 1st Extraordinary Session, 2011
- 1004. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Making supplementary appropriation of unappropriated moneys to various accounts** - Introduced 8/1/11 - To Finance - Constitutional rule suspended - Passed Senate 8/3/11 - Effective from passage - To House 8/4/11 - Reference dispensed - Passed House 8/5/11 - Effect from passage - To Governor 8/10/11 - Approved by Governor 8/10/11 - Chapter 1, Acts, 1st Extraordinary Session, 2011
- 1005. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Supplementing, amending and increasing appropriations to Department of Transportation** - Introduced 8/1/11 - To Finance - Constitutional rule suspended - Passed Senate 8/3/11 - Effective from passage - To House 8/4/11 - Reference dispensed - Passed House 8/5/11 - Effect from passage - To Governor 8/10/11 - Approved by Governor 8/10/11 - Chapter 2, Acts, 1st Extraordinary Session, 2011

1006. By Sen. Unger, Stollings, Browning, Edgell, D. Facemire, Foster, Klempa, Laird, Miller, Palumbo, Plymale, Prezioso, Williams, Barnes, Boley and Hall (Originating in Senate Select Committee on Redistricting) - **Reapportioning senatorial districts** - Introduced 8/1/11 - Amended - Passed Senate 8/3/11 - Effective from passage - To House 8/3/11 - Reference dispensed - Amendments pending - Passed House 8/5/11 - Effect from passage - To Governor 8/17/11 - Approved by Governor 8/18/11 - Chapter 6, Acts, 1st Extraordinary Session, 2011
1007. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Making supplementary appropriation of unappropriated moneys to Secretary of State** - Introduced 8/3/11 - To Finance - Constitutional rule suspended - Passed Senate 8/3/11 - Effective from passage - To House 8/4/11 - Reference dispensed - Passed House 8/5/11 - Effect from passage - To Governor 8/10/11 - Approved by Governor 8/10/11 - Chapter 3, Acts, 1st Extraordinary Session, 2011
1008. By Sen. Stollings, Browning, Edgell, D. Facemire, Foster, Klempa, Laird, Palumbo, Prezioso, Williams, Barnes, Boley and Hall (Originating in Senate Select Committee on Redistricting) - **Reapportioning congressional districts** - Introduced 8/4/11 - Constitutional rule suspended - Passed Senate 8/5/11 - Effective from passage - To House 8/5/11 - Reference dispensed - Amended - Passed House 8/5/11 - Effect from passage - Senate concurred in House amendment and passed bill 8/5/11 - Effective from passage - To Governor 8/17/11 - Approved by Governor 8/18/11 - Chapter 5, Acts, 1st Extraordinary Session, 2011

ALL SENATE RESOLUTIONS OFFERED

101. By Sen. Unger - **Raising committee to notify House of Delegates Senate has assembled** - Introduced 8/1/11 - Committee reference dispensed - Adopted 8/1/11
102. By Sen. Unger - **Raising committee to notify Governor Legislature has assembled** - Introduced 8/1/11 - Committee reference dispensed - Adopted 8/1/11
103. By Sen. Unger - **Creating Senate Select Committee on Redistricting** - Introduced 8/1/11 - Committee reference dispensed - Adopted 8/1/11
104. By Sen. Unger - **Raising committee to notify House of Delegates Senate is ready to adjourn sine die** - Introduced 8/5/11 - Committee reference dispensed - Adopted 8/5/11
105. By Sen. Unger - **Raising committee to notify Governor Legislature is ready to adjourn sine die** - Introduced 8/5/11 - Committee reference dispensed - Adopted 8/5/11

ALL HOUSE BILLS PASSED BY HOUSE AND COMMUNICATED TO SENATE

106. By Del. Boggs, Caputo, White, Swartzmiller, Fragale, Staggers and Reynolds (Originating in House Select Committee on Redistricting) - **Reapportioning the House of Delegates districts** (Original similar to S. B. No: 1006) - Introduced 8/2/11 - With accompanying minority report, do pass - Motion to substitute minority report for the

report of the House Select Committee on Redistricting rejected - Amendments pending
 - Amended - Passed House 8/5/11 - Effect from passage - To Senate 8/5/11 - Committee
 reference dispensed - Constitutional rule suspended - Passed Senate 8/5/11 - Effective
 from passage - To Governor 8/17/11 - Vetoed by Governor 8/17/11

SENATE BILLS PASSED LEGISLATURE

- *1001. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Reducing consumers sales and service tax on food and food ingredients** - Passed 8/5/11; Effective from passage - To Governor 8/17/11 - Approved by Governor 8/23/11 - Chapter 7, Acts, 1st Extraordinary Session, 2011
- *1002. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Dedicating portion of coal severance tax to county of origin** - Passed 8/5/11 - To Governor 8/17/11 - Approved by Governor 8/23/11 - Chapter 8, Acts, 1st Extraordinary Session, 2011
- 1003. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Clarifying requirement for deposit and transfer of higher education proceeds from real property** - Passed 8/5/11; Effect from passage - To Governor 8/17/11 - Approved by Governor 8/23/11 - Chapter 4, Acts, 1st Extraordinary Session, 2011
- 1004. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Making supplementary appropriation of unappropriated moneys to various accounts** - Passed 8/5/11; Effect from passage - To Governor 8/10/11 - Approved by Governor 8/10/11 - Chapter 1, Acts, 1st Extraordinary Session, 2011
- 1005. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Supplementing, amending and increasing appropriations to Department of Transportation** - Passed 8/5/11; Effect from passage - To Governor 8/10/11 - Approved by Governor 8/10/11 - Chapter 2, Acts, 1st Extraordinary Session, 2011
- 1006. By Sen. Unger, Stollings, Browning, Edgell, D. Facemire, Foster, Klempa, Laird, Miller, Palumbo, Plymale, Prezioso, Williams, Barnes, Boley and Hall (Originating in Senate Select Committee on Redistricting) - **Reapportioning senatorial districts** - Passed 8/5/11; Effect from passage - To Governor 8/17/11 - Approved by Governor 8/18/11 - Chapter 6, Acts, 1st Extraordinary Session, 2011
- 1007. By Sen. Kessler (Acting President) and Hall [By Request of the Executive] - **Making supplementary appropriation of unappropriated moneys to Secretary of State** - Passed 8/5/11; Effect from passage - To Governor 8/10/11 - Approved by Governor 8/10/11 - Chapter 3, Acts, 1st Extraordinary Session, 2011
- 1008. By Sen. Stollings, Browning, Edgell, D. Facemire, Foster, Klempa, Laird, Palumbo, Prezioso, Williams, Barnes, Boley and Hall (Originating in Senate Select Committee on Redistricting) - **Reapportioning congressional districts** - Passed 8/5/11; Effective from passage - To Governor 8/17/11 - Approved by Governor 8/18/11 - Chapter 5, Acts, 1st Extraordinary Session, 2011

HOUSE BILLS PASSED LEGISLATURE

106. By Del. Boggs, Caputo, White, Swartzmiller, Fragale, Staggers and Reynolds (Originating in House Select Committee on Redistricting) - **Reapportioning the House of Delegates districts** (Original similar to S. B. No. 1006) - Passed 8/5/2011; Effective from passage - To Governor 8/17/11 - Vetoed by Governor 8/17/11

HOUSE BILLS VETOED BY GOVERNOR

106. By Del. Boggs, Caputo, White, Swartzmiller, Fragale, Staggers and Reynolds (Originating in House Select Committee on Redistricting) - **Reapportioning the House of Delegates districts** (Original similar to S. B. No. 1006) - Passed 8/5/2011; Effective from passage - To Governor 8/17/11 - Vetoed by Governor 8/17/11

ORDER OF BUSINESS

[Senate Rule No. 7]

1. To read, correct and approve the Journal.
2. Introduction of guests.
3. To dispose of communications from the House of Delegates and The Executive.
4. To receive reports from standing committees.
5. To receive reports from select committees.
6. To receive bills, resolutions, motions and petitions.
7. To act upon unfinished business of the preceding day and resolutions lying over from the previous day, and no resolution shall lose its place on the calendar by not being acted upon on the day following that on which it was offered.
8. Senate and House bills on third reading.
9. Senate and House bills on second reading.
10. Senate and House bills on first reading.
11. Introduction of guests.
12. Remarks by members of the Senate.
13. Miscellaneous business.

EXHIBIT N

Bill Status - 2011 1st Special Session

Senate Bill 1008

Legislative Session: 2011(1X)

LAST ACTION: *Effective from passage - (August 5, 2011)*

SUMMARY: Reapportioning congressional districts

LEAD SPONSOR: Stollings

SPONSORS: Browning, Edgell, D. Facemire, Foster, Kiempa, Laird, Palumbo, Prezioso, Williams, Barnes, Boley, Hall

BILL TEXT: Introduced Version - Originating in Committee - [html](#) | [wpd](#)

[Bill Definitions](#) [17](#) Enrolled Version - Final Version - [html](#) | [wpd](#)

CODE AFFECTED: § 1 - 2 - 3 (Amended Code)

§ 1 - 2 - 2 b (Amended Code)

SUBJECT(S): Governor -- Bills Requested By
Redistricting

ACTIONS:

	Description	Date	Journal Page
Effective from passage - (August 5, 2011)			
S	Chapter 5, Acts, 1st Extraordinary Session, 2011	08/29/11	
H	Approved by Governor 8/18/11 - House Journal	08/05/11	
S	Approved by Governor 8/18/11 - Senate Journal	08/05/11	91
S	Approved by Governor 8/18/11	08/18/11	
H	To Governor 8/17/11 - House Journal	08/05/11	
S	To Governor 8/17/11 - Senate Journal	08/05/11	91
S	To Governor 8/17/11	08/17/11	
S	Completed legislative action	08/05/11	
H	House received Senate message	08/05/11	
S	Communicated to House	08/05/11	80
S	<u>Effective from passage (Roll No. 8)</u>	08/05/11	80
S	<u>Senate concurred in House amendment and passed bill (Roll No. 8)</u>	08/05/11	79-80
S	House Message received	08/05/11	79
H	Communicated to Senate	08/05/11	
H	<u>Effective from passage (Roll No. 538)</u>	08/05/11	
H	<u>Passed House (Roll No. 537)</u>	08/05/11	
H	Read 3rd time	08/05/11	
H	Amendment adopted (Voice vote)	08/05/11	

H	Read 2nd time	08/05/11	
H	Dispensed with Constitutional Rule (Roll No. 536)	08/05/11	
H	Read 1st time	08/05/11	
H	Immediate consideration	08/05/11	
H	Reference dispensed	08/05/11	
H	Introduced in House	08/05/11	
S	Ordered to House	08/05/11	53
S	Effective from passage (Roll No. 4)	08/05/11	53
S	Passed Senate (Roll No. 4)	08/05/11	53
S	Read 3rd time	08/05/11	53
S	Suspension of Constitutional Rule (Roll No. 3)	08/05/11	52-53
S	On 3rd reading	08/05/11	52
S	Floor amendment rejected (Roll No. 2)	08/05/11	51-52
S	Read 2nd time	08/05/11	51
S	On 2nd reading	08/05/11	51
S	Read 1st time	08/04/11	49
S	Immediate consideration	08/04/11	49
S	On 1st reading	08/04/11	49
S	Reported do pass	08/04/11	49
S	Originating in Senate Select Committee on Redistricting	08/04/11	49

2011 FIRST EXTRAORDINARY SESSION

SB 1008

Congressional Redistricting

RCS# 537
8/05/2011
8:45 PM

PASSAGE

YEAS: 90 NAYS: 5 NOT VOTING: 5 PASSED

YEAS: 90

Anderson	Ferro	Manypenny	Romine
Armstead	Fleischauer	Marshall	Rowan
Ashley	Fragale	Martin	Shaver
Azinger	Frazier	Miley	Sigler
Barill	Gearheart	Miller, C.	Skaff
Barker	Givens	Moore	Smith
Boggs	Guthrie	Morgan	Sobonya
Border	Hall	Moye	Staggers
Butcher	Hamilton	Nelson	Stephens
Campbell, D.	Hartman	O'Neal	Storch
Campbell, T.	Hatfield	Overington	Stowers
Cann	Householder	Pasdon	Sumner
Canterbury	Howell	Paxton	Swartzmiller
Caputo	Hunt	Perdue	Talbott
Carmichael	Iaquina	Perry	Varner
Craig	Ireland	Pethtel	Walker
Crosier	Jones	Phillips, L.	Walters
Duke	Kominar	Phillips, R.	Wells
Ellem	Kump	Pino	White
Ellington	Lane	Poling, D.	Williams
Ennis	Longstreth	Poling, M.	Speaker Thompson
Evans	Mahan	Poore	
Ferns	Manchin	Reynolds	

NAYS: 5

Andes	Doyle	Savilla
Cowles	Lawrence	

NOT VOTING: 5

Brown	Miller, J.	Snuffer
Michael	Rodighiero	

2011 FIRST EXTRAORDINARY SESSION

SB 1008

Congressional Redistricting

RCS# 538
8/05/2011
8:46 PM

EFFECT FROM PASSAGE

YEAS: 90 NAYS: 5 NOT VOTING: 5 ADOPTED

YEAS: 90

Anderson	Ferro	Manypenny	Romine
Armstead	Fleischauer	Marshall	Rowan
Ashley	Fragale	Martin	Shaver
Azinger	Frazier	Miley	Sigler
Barill	Gearheart	Miller, C.	Skaiff
Barker	Givens	Moore	Smith
Boggs	Guthrie	Morgan	Sobonya
Border	Hall	Moye	Staggers
Butcher	Hamilton	Nelson	Stephens
Campbell, D.	Hartman	O'Neal	Storch
Campbell, T.	Hatfield	Overington	Stowers
Cann	Householder	Pasdon	Sumner
Canterbury	Howell	Paxton	Swartzmiller
Caputo	Hunt	Perdue	Talbott
Carmichael	Iaquinta	Perry	Varner
Craig	Ireland	Pethtel	Walker
Crosier	Jones	Phillips, L.	Walters
Duke	Kominar	Phillips, R.	Wells
Ellem	Kump	Pino	White
Ellington	Lane	Poling, D.	Williams
Ennis	Longstreth	Poling, M.	Speaker Thompson
Evans	Mahan	Poore	
Ferns	Manchin	Reynolds	

NAYS: 5

Andes	Doyle	Savilla
Cowles	Lawrence	

NOT VOTING: 5

Brown	Miller, J.	Snuffer
Michael	Rodighiero	

EXHIBIT O

SELECT COMMITTEE ON REDISTRICTING TRANSCRIPT

Thursday, August 4, 2011

2 p.m.

CHAIR: Select Committee on Redistricting. Members, we had yesterday before us an originating bill for the purposes of amendments. It is my understanding from the Clerk we have four amendments pending and so we will take them up in the order in which was received.

Yes, sir.

SENATOR BARNES: Request of the Chair: If we have four amendments, we have five maps to look at I would assume if all four amendments are presenting a map. Procedurally, this makes it very, very difficult for us to take them in order. In the event that we would be amending amendments, we can only go three deep. We potentially could procedurally run out of motions to make before we make plans before we see all the maps. I would request, respectfully, that we be provided not necessarily the bills, but for us to have all the maps to look at and for us to have an open discussion here in the committee and maybe a presentation by the sponsors of each before we move into the procedural actions.

CHAIR: That will be fine. However, our rules state that the amendments are taken in order in which the Clerk received them, so we do have to eventually take them up in that order. Now if you

want to amend the amendment with your map or if you just want to fight and shoot an amendment down and then proceed to the next one until it gets to yours, that's a strategy you will have to take. But we have to take it within the order. But I don't mind having all four in front of our members to look at so that we know what's on the horizon, you know, as we go through each one. That's of your preference. That is no problem with me.

SENATOR BARNES: It would be my preference since transparency is a part of this proceedings. I think it would be very difficult for us to vote up or down an amendment if we have not seen the potential of what may be coming up next.

CHAIR: Point well taken. Thank you, Senator. We'll do that. I think Jake has those. But before we get started on the amendment

I'm sorry, Senator Williams.

SENATOR WILLIAMS: Just another question on procedure. If we see Amendment No. 1 and we feel that's a reasonable amendment and vote for it and the committee votes to accept that by a majority vote, then that amendment can be amended again with Map No. 2. And say, oh, boy, I like that a little better. So, could you go through the procedure for us so we understand exactly at what point we are going to be voting on a final plan.

CHAIR: Yes, sir. The point from the Senator from Randolph is well taken. If we have all four, then you can plan your vote. But

under Rule 10, it states:

The rejection of a motion to strike out and insert one proposition shall not prevent a motion to strike out and insert a different proposition and shall not prevent a subsequent motion to simply strike out. The rejection of a motion simply to strike out shall not prevent a subsequent motion to strike out and insert.

We have Karl here. But if you do a strike out and insert, you cannot go back--once the strike out and insert passes, if it is not amended--then you can't go back and do another strike out and insert of what you just passed. OK. You can amend If there is a strike

Karl, come up here and explain to us

CHAIR: OK. Let me explain. It's what I said here. A strike and insert amendment is before us. You can amend the strike and insert, but once the strike and insert passes in a bill, you can't revisit that without reconsideration of the body.

OK. So, if the first map comes up, you have every right to amend the first amendment or first strike and insert and then we have to vote on that amendment to the strike and insert and then vote for the strike and insert. But if you just take the strike and insert up, and the strike and insert passes, then the only way you could do it again, try to do it, is reconsider that strike and insert, removing it and then bring up a different map. So, as we take it in order That's why the Senator from Randolph's idea of getting all four in front of us . . . because at that point you can know which one you would vote for so you would know which

one to vote against as it goes through until it gets to yours.

You cannot amend the same section twice. You can only amend it once if it prevails. If it doesn't prevail, you can offer up another amendment.

Yes, sir.

SENATOR HALL: There is a procedural way, once you get all tangled up, if you want to go back and reconsider another map. It's just move to reconsider and then it's the same majority vote as it would be

CHAIR: Right. If there is no roll call or anything, you could say, having voted on the prevailing side, I now would like to move that we reconsider our actions in which we adopted this amendment.

SENATOR HALL: OK.

CHAIR: And then there would have to be a vote on the reconsideration. That removes it and then you can then proceed with another amendment.

SENATOR HALL: And just for further clarification, if these are done by voice vote and you call, say, the yeas as prevailing, then everybody in the room, unless a recorded vote, has moved on the prevailing side, is that correct?

CHAIR: Yes, sir. That's under our rules, assumed to be that way unless you tell Clerk you want to be recorded as saying no. Also, if it becomes very close, I will make sure division and feel

free to offer up if you want roll call, because I want to try to make sure I hear what actually what you want. I'm not going to try to I want to make sure it's truly the prevailing side is winning on this. So, you need to help me with that.

So, if you think that When I say, it appears the ayes have it, if you think that it was yelled a little bit louder or something with the nays, I want you to speak up and I'd be more than willing to do a division just to make sure. OK. Because I want no one leaving this room saying, I thought sure that thing passed, but I didn't hear it.

Senator Browning.

SENATOR BROWNING: Let me walk through this one time with you and make sure that I am thinking correctly. The first amendment that we are going to offer to this bill will be a strike and insert amendment.

CHAIR: Yes, sir.

SENATOR BROWNING: So, any amendment offered thereafter will be an amendment to that strike and insert. So, we'll take each amendment in succession after that until one wins to replace the strike and insert and then any further amendments will be to amend the amended strike and insert. Is that correct?

CHAIR: That's one strategy, but another strategy is you could offer up the strike and insert and if that's the one you want, then you vote for it. If it prevails, then it's the one that we go

with. The only way you can take it away is reconsider. The other one is you can vote it down, and vote them down until you get to the one you want and then you vote it up.

You're voting on a strike and insert. Yes, sir. It's the only way we can do it because you got to make sure it all fits. And these amendments are quite unique and different in a lot of ways. OK. So, the only way we can do it is through a strike and insert.

But we'll take our time and if there is any question on each procedural motions, we've got Karl here to keep us straight. And we'll just keep getting him He's going to work extra overtime today to make sure we do it right. OK. All right.

Now, before we get to all the amendments, the first thing is . . . on your desks we have an article from, I think, it is the Florida papers. I just want to clarify this because the press seems to be really enthralled with this and I just want to make sure we do a fact-check on this and make sure it is factual.

In this article it indicates that Congresswoman Debbie Wasserman Schultz and also Congressman Allen West . . . It indicates that they live in the same congressional district. Now, Congresswoman Wasserman Schultz is the one that represents the district where she resides. Congressman Allen West lives in her district but represents another district. If you look at this article and you come down to the tenth paragraph and it reads:

To win a seat on the city council, you have to live in that city when you take office. To win a seat in the state House, or the state Senate, you also have to live in the district you represent. The obvious question is why would it work differently for Congress?

It says, "The U. S. Constitution" It says that:

The requirements for U. S. House member [sic] are spelled out in Article I, Section 2 (that reads) No person shall be a Representative who shall not have attained . . . the age of twenty five . . . and been seven years as [sic] a citizen of the United States, and who shall not, when elected, be an inhabitant of the [sic] state in which he shall be chosen.

So, then it says ". . . U. S. House members need only live in the state they represent to be eligible for their seat."

Now I want to clarify that because the press just seems to be getting it wrong. They are characterizing our maps in the sense that we're pitting one against the other and that's not true. Yes, they may both reside in the same district if one map passes the other. But it does not pit them against each other unless they choose to be pitted against each other.

So, there's a perfect example where this has occurred. It's in Florida. It's a very celebrated debate, discussion and fight that goes on between those two individuals. So, I just wanted to point that out to the members that that's not the case. And, so, that's information.

With that, Bob Bastress, Professor of Law at WVU, is here. And I'd like to give him an opportunity--he couldn't be here yesterday, but he can be here today and I am glad he joined us--

just to speak with us a little bit on the constitutionality, looking at this issue, making any comments that he has on the maps or the situation of the congressional . . . however way he wants to feel it. But I would like to invite him up for that and also offer up the opportunity for you to ask him questions. OK.

So, with leave of the committee, Professor Bastress, if you'd come forward. State your name, your title and we'll go from there.

PROFESSOR BASTRESS: Bob Bastress, John W. Fisher II Professor of Law at West Virginia University College of Law.

I appreciate this opportunity. It is always a pleasure to speak to you all. I think Mark briefed you yesterday, as I understand it, and gave you the basic principles. I don't know if I have a whole lot to add to what he has already informed you.

The overriding principle, of course, with congressional districting is the requirement that the Legislature make every effort to achieve perfect equality; that is, a perfect one person, one vote districts. Variations from that are permitted if they're minor variations and if they are necessary to achieve some legitimate state interest. And the court has been quite rigid in insisting that the Legislature make every good faith effort to achieve perfect equality.

There are a set of redistricting criteria which are traditionally honored. The state constitution sets out some of those criteria. The districts, to meet Article I, Section 4, must

be compact, must consist of contiguous counties and must be as equal as practicable in numbers. Traditionally, this state has maintained a tradition of equality of numbers. It was one of the reasons the state came into existence, in fact. So, that's your task.

The other traditional redistricting criteria are: Try to follow communities of interest and identify them so you can keep the districts as unified as possible. It's difficult to do with just three districts in this state, but that is a traditional goal.

I've mentioned compactness. It serves several redistricting purposes. It helps to avoid gerrymanders and also furthers the goal of ensuring that representatives are as close to the people as possible. You get a district that's too spread out, it reduces constituent service and contact between representative and those whom the representative serves.

There are other criteria which are considered legitimate-- maybe not as important as those I have already mentioned. Trying to preserve preexisting districts also helps to prevent gerrymanders, but it's not as overriding or compelling. Trying to avoid incumbent battles and, as Senator Unger has already explained, that's pretty easy to do with congressional districting because you don't have to run in the district in which you live. So, it's not as important as maybe the other criteria.

So, I mean, it is a challenging task, because you have to

balance a lot of very often competing factors as well as try to ride the political waves. So, I don't envy you this task.

But, I will take questions if you want.

CHAIR: Questions? Yes, Senator Palumbo.

SENATOR PALUMBO: Thank you, Mr. Chairman.

Thank you, Professor, for coming here and joining us today. Our congressional districts were roughly configured this way 20 years ago, is that right?

PROFESSOR BASTRESS: Right. That's correct.

SENATOR PALUMBO: Have they been challenged since they have been in this configuration?

PROFESSOR BASTRESS: Not since I and another lawyer lost the challenge in 1991.

SENATOR PALUMBO: Can you tell us a little bit about that?

PROFESSOR BASTRESS: Yeah. Obviously, the challenge in 1991 was we were going from four districts to three. There were various plans before the Legislature and some of them would have basically given each of the four congressmen a decent opportunity to run for office. The plan they ended up with, in effect, created that long second district which is, frankly, not a good application of districting criteria because it is so long and relatively narrow. But that eliminated basically one of the congressional candidates because he ended up with a much smaller portion of the district he chose to run in which was the one he lived in. And, of course, he

did lose.

The plan was challenged; because it was not the most equal and so, therefore, the state had to justify why it didn't choose a plan that promoted greater equality. The District Court in that case concluded that the state had a legitimate interest in trying to preserve the core of preexisting districts and it was difficult to do when you were losing a district and that the state convinced that court that the plan that the Legislature adopted promoted that goal the best.

I can say that the decision in that case [Stone v. Hechler] came down very heavy on the fact that federal courts should defer to state legislative determinations about redistricting so long as they meet the federal equality standards. The court, applying that deferential standard, concluded the legislative judgment was reasonable in creating the long second district. The other two districts were relatively compact.

SENATOR PALUMBO: And there was no challenge after the 2001 redistricting?

PROFESSOR BASTRESS: No. There was not.

SENATOR PALUMBO: OK. And then the requirements for the congressional districts have been essentially the same over the course of the last 20 years. Have they changed at all?

PROFESSOR BASTRESS: No, that was adopted in 1991, challenged in 1991 and not challenged in 2001.

SENATOR PALUMBO: But I mean the requirements that we're bound to follow in drafting these districts--those haven't changed, have they?

PROFESSOR BASTRESS: Those have not changed. You're right. That's correct.

CHAIR: Senator Foster.

SENATOR FOSTER: Thank you, Mr. Chairman.

Thank you, Professor. It's always nice to see you down here. In follow up to my colleague from Kanawha County: Was the decision in the Hechler case, was that in federal court?

PROFESSOR BASTRESS: Yes.

SENATOR FOSTER: Was it in federal district court? It wasn't appealed?

PROFESSOR BASTRESS: It was not appealed. That was a decision made by persons calling the shot--basically, the candidate and his supporters--the candidate who got the short end of the stick and his supporters, as I recall, decided not to appeal it.

And, as the losing lawyer in that case, too, of course I think the decision was wrong. That doesn't count for much.

SENATOR FOSTER: Thank you.

CHAIR: Other questions?

Professor, in regards to 1991, and particularly what's happening across the country with most if not all the states are now getting within a variance of one to zero people, would anything

change in the sense of what the courts are looking at as far as standard? Particularly, I would imagine technology on map making has advanced a little bit since 1991. I believe in 1991 we were running around with pagers; now we are running around with cell phones. But has anything would have changed in regards to the requirement of still upholding the one person, one vote, particularly if other states are all going to a zero to one area as far as deviation from person, or would the 1991 case apply specifically to this case, to this situation?

PROFESSOR BASTRESS: It is true that there has been a national trend towards almost perfect equality. That has been enabled by the development of some very sophisticated software. The Supreme Court has said in the past, for example, that respect for local government boundaries is not as great an interest in the context of congressional elections as it would be in state legislative races which is why state legislative reapportionments are given a little bit more flexibility than the federal.

And, so, I would say that--I haven't seen a case on this, but one could make a fair inference--that the closer the states are proving that they can get to perfect equality, the less leeway federal courts might be willing to give to state legislative deviations.

CHAIR: So, and I don't know, you have talked with your colleague I know you are not going to speak on behalf of

Kenneth Martis who is a professor.

PROFESSOR BASTRESS: Right.

CHAIR: Particularly in the area of the compactness issue in relation to the West Virginia Constitution. And, of course, . . .

Jake, if you could go ahead and get those, the statement from Professor Martis passed out.

There is a map of when West Virginia was three congressional districts of 1863-1883. I guess that was the last time we were three, then we went four, five, six.

PROFESSOR BASTRESS: Right.

CHAIR: Now, do you have any comments in regards to the compactness issue in relation to . . . Because he is not able to attend, because he is at a conference.

PROFESSOR BASTRESS: Right. Well, first, I would preface my remark by saying that Dr. Martis is one of the most prominent--maybe and arguably the most prominent--political geographer in the country and he has mapped every congressional district from every state that we have ever had in this country. So, he is an extremely knowledgeable person about congressional districting.

I would echo--I believe his statement has been distributed in the packet that the Senators have received--and I would echo his opinion that the current second district fails most standards of compactness. There are several measurements that are explained in

the packet, and in all of those the second district does poorly.

CHAIR: OK. Any questions on that?

Senator Barnes.

SENATOR BARNES: Was the standard of compactness a standard in 1991?

PROFESSOR BASTRESS: Yes, it was. The court actually did consider that. I don't recall how they came out with their conclusion that the plan in 1991 promoted compactness, cause I don't remember what the comparison plans were. I just haven't seen those plans in quite some time.

SENATOR BARNES: But if that was the primary selection process, then the court would have ruled otherwise?

PROFESSOR BASTRESS: If what was the primary selection process?

SENATOR BARNES: If compactness, according to the definition that we are seeing in some of these other maps, if that was the true definition and the primary objective in achieving congressional balance, then the court would have ruled in your favor. Isn't that true?

PROFESSOR BASTRESS: Well, there is no one criterion that is superior to others except equality. You have to meet federal equality standards. But among the other criteria, I would say you would almost have to be contiguous. Otherwise, you would violate the state constitution.

But compactness is a very relative term. It's hard to say that one district is more compact than another which is why we have these various measurements.

SENATOR BARNES: Sure.

PROFESSOR BASTRESS: In 1991 it was true that, it was the case that the plan that the court settled on was less compact, had lesser compact standards than most of the other plans they were comparing. I think there were 16 or 17 plans. It also had less equality than about 8 or 9 of the others. So, it was not number one in compactness, nor was it number one in equality. What it was number one in, the court concluded, was that it did best at preserving preexisting congressional districts. That was debatable, but that's what the court concluded. And it says the deviations that you have from equality--they were fairly small. It was less than one percent--it was .09--less than one tenth of one percent. So, it was pretty close to equality. Because it was only a minor deviation and because it was pretty close to compact, the court said that the desire to keep the core of the congressional districts was a sufficient interest to justify the deviations. If that is responsive, I don't know

SENATOR BARNES: I think that is a great response. Certainly, then, you have stated that there is a national trend to a perfect balance. I don't know that you have used that term, perfect balance, but there is a national trend. But when was the last case

that our federal courts established a criteria of what was the allowable amount of difference that they permitted in such a case?

PROFESSOR BASTRESS: The court, with regards to congressional districting, has not drawn a strict demarcation that you can't exceed. It's certainly implied you can't go over one percent, but there hasn't been any strict line drawing as there has been with state legislative redistricting. What the court has said is: You cannot deviate at all from perfect equality unless you've made a good faith effort to avoid any deviation and that the Legislature has found that any deviation whatsoever is necessary to achieve some legitimate interest. And the court has said even a de minimis deviation has to be justified. You just can't just do it. The last case in which the court struck down a deviation was the Karcher case in which the deviation, as I recall, was .64 percent. So, it was about six one-hundreths of a deviation and the court said you can't do that, because you haven't given us a reason. So, the court concluded that there was not a good faith effort to achieve perfect equality.

SENATOR BARNES: Finally, then, if I understand the summation of your remarks, it would sound to me like the courts have deferred to the Legislature as long as we were within our given rights of selection.

PROFESSOR BASTRESS: The courts defer to the Legislature in terms of their judgment about what's necessary to achieve some

legitimate interest as long as they don't stray too far. That's true.

SENATOR BARNES: Thank you very much.

CHAIR: Senator Prezioso.

SENATOR PREZIOSO: Thank you, Mr. Chairman.

As I look at some other states, I have before me an example of four other congressional districts: The twelfth congressional district in Pennsylvania. I would like for you to take a look at these and make comments about these if you would, dealing with the idea of compactness. The sixth congressional district out of Ohio.

PROFESSOR BASTRESS: Right.

SENATOR PREZIOSO: I'm sure you have probably seen some of these.

PROFESSOR BASTRESS: I have.

SENATOR PREZIOSO: I mean some of them look like a Chinese dragon symbol.

PROFESSOR BASTRESS: Yes.

SENATOR PREZIOSO: Others look like the Golf Channel golf tee.

PROFESSOR BASTRESS: Yes, some that look like checkerboards.

SENATOR PREZIOSO: I mean--and I am going to pass these out when I make an amendment. Jake, could you give this to the Professor here? How do we address situations like this? I mean . . . Would you call that gerrymandering?

PROFESSOR BASTRESS: It probably was. I mean I had seen

these.

[inaudible]

PROFESSOR BASTRESS: There is no explicit federal compactness requirement. The compactness requirement imposed on you, the express one, is in the state constitution. There is some suggestion and some, particularly Justice Stevens' opinion concurring in the Karcher case, that there might be federal compactness limitations though not as strict as the state's. There are a lot of things that might explain these districts.

One thing, for example, is a desire to promote minority representation. Particularly in the 1990s round of redistricting, there were some really wild-looking districts created around the country, because there was a big movement that year.

SENATOR PREZIOSO: So that would be an exception to the compactness argument--would be influence districts?

PROFESSOR BASTRESS: Yes, that sometimes can justify deviations from compactness in terms of federal constitutional requirements. The Supreme Court put a limit on that in a series of cases in the 1990s, saying that if the only explanation for these wild-looking districts is the desire to create a minority-majority district, it's unconstitutional. It's racial gerrymandering. And racial gerrymandering, if you have no other justification, if that's the sole explanation for a crazily created district--it doesn't meet any other or promote any other traditional

redistricting criteria, then that racial gerrymander is unconstitutional.

The court has declined the invitation, at least in its most recent cases, to scrutinize political gerrymanders. That's what explains at least some of these. The Pennsylvania one, as I recall, that was a huge controversy up there over, it was essentially, the Republicans had a narrow control in the Pennsylvania Legislature and redistricted in such a way that it gave them a much larger percentage of the congressional delegation. I think that was the explanation in Pennsylvania.

SENATOR PREZIOSO: Taking a look at a state like West Virginia, if you look at the proportion of political party membership--and it's about three-to-one Democrat--wouldn't you consider drawing districts that represented the actual political membership of the state? I mean, there is an edge toward Democrats.

PROFESSOR BASTRESS: Yes. That is not an illegitimate criterion. To try to achieve districts which reflect the overall political makeup or composition of the state would certainly be considered to be a legitimate redistricting criterion.

SENATOR PREZIOSO: So, if you were looking, according to what I have seen in the existing congressional districts, this looks pretty good compared to the four examples that I presented to you. As you look at proposed amendments, take into consideration the

political parties.

PROFESSOR BASTRESS: It is perfectly legitimate. Redistricting is a highly politicized process, and it is pretty hard to remove politics from it.

SENATOR PREZIOSO: Thank you, sir. I appreciate it. I would like to pass those around to the members.

PROFESSOR BASTRESS: I would point out in particular the twelfth district in North Carolina which is one of these districts that the Senator has made available. It's a rather famous one. It follows the interstate up through the middle of North Carolina, and it's still there. It was said at one time that if you drove down the interstate with your doors open, you would wipe out half of the population in the district. And you can see where that comes from when you look at this.

CHAIR: Professor, when Senator Barnes was questioning . . . In the 1991 case in the congressional districts, what was the deviation for the overall range where it was off as far as population?

PROFESSOR BASTRESS: It was, the maximum, the raw total was something like 550, or something like that, which worked out to a percentage that was under one tenth of one percent. I can't remember the exact percentage. And then there was a comparison plan which was, like, under one one-hundredth of one percent.

CHAIR: Well, give me Give me Is it .0?

PROFESSOR BASTRESS: It was low.

CHAIR: If you could. You say it was 500-some people. Right?

PROFESSOR BASTRESS: Right.

CHAIR: Give me, if you could, that number for me. And this is the 1991 plan that went to court, was challenged and the courts upheld even with that elongated district.

PROFESSOR BASTRESS: Yeah. I was right. It was .09 percent-- so it was just under one tenth of one percent deviation.

CHAIR: So, .09 percent. And how many people?

PROFESSOR BASTRESS: 556.

CHAIR: 556.

PROFESSOR BASTRESS: Right.

CHAIR: OK. And since that time we also had a redistricting in 2001 where I believe there were two counties that flipped. One flipped; the other one flopped. One went up to the first district; the other one went down to the third.

PROFESSOR BASTRESS: Right.

CHAIR: Right. So, that second congressional district even became narrower. With two counties leaving it, it became even thinner coming down through.

PROFESSOR BASTRESS: Right. As I recall, it lost Gilmer and picked up Fayette, I think was it. Yes, I think that's right.

CHAIR: So, if the 1991 was challenged and, of course, the courts upheld the redistricting when it went from four to three and

the relative overall range was .09 percent and the absolute of all range as far as peoples concerned was 556 people. We have a proposal here with the Mason County flop that the overall range is 0.79 percent and the overall range for people is 4,871. So, I'm just wondering if the courts will go back to the 1991 case and say: Well, you were on the border back then, but, wow, What do you say about that?

PROFESSOR BASTRESS: It's a fairly significant deviation, particularly as you mentioned earlier, with modern technology. The .79 is, of course, larger than the .64 in Karcher. The Stone case did say the larger the deviation, the greater the burden of justification. And that was part of the Stone thinking that, well, this is a pretty minor deviation. It was .09 compared to .0025 so it didn't take much of a justification. It would take more of a justification, significantly more substantial justification, to support a .79 deviation.

CHAIR: Professor, as far as the other states that are actually moving forward. Arkansas had to split up their counties. There are three states that had whole counties in congressional: Arkansas, Iowa and West Virginia. That's the only three left where we don't split up counties for congressional. But this year Arkansas had to do so in order to try to meet the variance. Right?

In regards, would the federal courts look at other states and if you have Alabama, one person deviation, zero percent; Illinois,

zero; Indiana, one person; Minnesota, one person; Missouri, one person; Nebraska, one person; Oklahoma, one person; Oregon, one person; Texas, one person; and then West Virginia, 4,871. Would that stand out any?

I know that there is a lot of press about multimember districts and how we're one of two states with multimember. I hear a lot of people beating the drum on that and how out of whack we are there. Would that not also raise a red flag with the federal folks? Would that not be considered?

PROFESSOR BASTRESS: I think it would certainly be relevant. I think it would be relevant in two senses. One is how easy it is to reach perfect equality and how much the other states have more or less devalued the significance of the interest in respecting local government lines which the Supreme Court has said just simply is not as important in congressional districting as in state districting practices. So, I think that what the other states have achieved could be influential with a court. It is certainly relevant.

CHAIR: The Senator from Marion passed out some very interesting maps on compactness. As you referred to the compactness language, it isn't necessarily in the U. S. Constitution. It's more in the West Virginia Constitution. Right?

PROFESSOR BASTRESS: There is no reference to compactness in the federal constitution; there is in the state constitution.

CHAIR: Right. So, we have maybe a requirement that maybe these states may not have in their constitution that we have to fulfill. But what is interesting is one of them he has here is from Illinois. And what is interesting on that, they may not have gotten the compactness right, but Illinois has 0.0 percent deviation with zero people.

PROFESSOR BASTRESS: Right. Illinois has been doing that for quite some time.

CHAIR: So, they uphold the one person, one vote even though it doesn't look pretty.

PROFESSOR BASTRESS: There are some crazy districts in Illinois. I don't want to

CHAIR: But they didn't play with the one person, one vote. Is that right?

PROFESSOR BASTRESS: They do not. That's correct.

CHAIR: OK. All Right. Further questions?

Senator Foster.

SENATOR FOSTER: Thank you, Mr. Chairman.

I have got a question. I will try to articulate this the best I can. Are there examples over the last 30, 40, 50 years--and I'm sure there are and, hopefully, you can provide those for us--of states who have not changed the number of representatives and whose population has not changed significantly where there has been a marked departure from one redistricting allotment to the next?

PROFESSOR BASTRESS: Certainly there have been shifts if that's what you're asking.

SENATOR FOSTER: Well, I just wondered if in a situation where the state's overall population hasn't changed from one decennial redistricting to another and the number of representatives has not, or the number of districts hasn't changed whether there has been a significant shift? And I am sure there have.

PROFESSOR BASTRESS: OK. If I can get your Where the state has the same number of districts, but it's decided to realign the districts in different ways. Are there examples of that?

SENATOR FOSTER: And the population has not changed significantly.

PROFESSOR BASTRESS: Right. In the 1990s there was--quite a bit of that. That was largely a function of creating these minority-majority districts. And then, of course, that got struck down. So then the states had to realign again, because those minority-majority districts were deemed to be unconstitutional racial gerrymanders. So, there has been significant realignment of congressional districts particularly in the 1990s.

And then there were also examples in the 2000s where there were major realignments in Texas, as you recall maybe: When Tom DeLay orchestrated that realignment of the Texas congressional districts so that--and this was mid-decade; it was in the middle of the 2000s, I think it was the 2000s; it might have been the 1990s--

and that was challenged. Because it was a mid-decennial realignment, the Supreme Court said that's OK. And that was a major realignment, because it ended up electing twice as many Republicans as I recall.

CHAIR: Further questions?

Professor Bastress, just outline the priority of what we need to be looking at as we proceed as far as looking at amendments. What's the first priority that we need to be making sure that we are trying to set a standard with, and the second and the third? Kind of lay out what we ought to look at and measure each amendment to the standard, whatever the standard is.

PROFESSOR BASTRESS: You have to meet equality. I mean that's number one.

CHAIR: Which means what?

PROFESSOR BASTRESS: It's as close to perfect equality as you can get it. That you've made a good faith effort but you can't achieve it because there's some other legitimate interest out there that justifies the deviation.

And as I said earlier that the greater the deviation, the greater must be the justification and a good faith effort though is required to achieve perfect equality.

And then, of course, you have to have contiguity in terms of the state Constitution. It's hard to avoid that one.

And then third you should use a goal of compactness. And I

think you ought to look at communities of interest and those are maybe not constitutionally required but they are considered to be a major and important redistricting criterion.

CHAIR: And where does incumbency protection come in on that list for making sure, keeping?

PROFESSOR BASTRESS: It's legitimate and could be used to justify some variation but it would not be considered an important state interest. It's certainly legitimate in avoiding incumbent competition and protecting incumbents has long been considered a valid criteria just not an overwhelming one.

CHAIR: OK. Senator Hall, do you have a question?

SENATOR HALL: My question, sure.

CHAIR: Did I ask my question?

SENATOR HALL: You asked my question.

CHAIR: Hey, like minds think alike. Well, repeat that again, professor, because we need a qualification on it? You said legitimate

PROFESSOR BASTRESS: I said, it's legitimate but not overriding.

CHAIR: You think it's worth .79 percent deviation for 4,871 people. Is that legitimate enough?

PROFESSOR BASTRESS: I'm a little reluctant to express an opinion on that because it's conceivable I could end up defending it in court. So I'll pass on expressing an opinion that a panel of

three judges could later throw up at me. I've had that happen to me as you well know. (Laughs)

CHAIR: OK. Thank you very much. Any further questions for Professor Bastress?

Senator Barnes.

SENATOR BARNES: Just based on your last statement are you anticipating in having to defend something in court in regard to this?

PROFESSOR BASTRESS: Am I anticipating it? It's not uncommon for any redistricting plan to get challenged. In fact, I was at an NCSL conference this year on redistricting and virtually every speaker started their talk with "You can count on one thing: You are going to get sued." It's just the nature of the beast in redistricting.

SENATOR BARNES: Thank you.

CHAIR: If we do the right thing we can avoid that.

Yes, Senator.

SENATOR FOSTER: I've got just one more question while the expert is here. In reading this article that you passed around related to something that I wasn't aware of and I'm certainly now am well aware of it. You only have to live in the state that you represent in Congress . . .

PROFESSOR BASTRESS: Right.

SENATOR FOSTER: and not live in the district and they list

other members of Congress who live outside their districts. How common has it been for a member of Congress to reside and to be elected from one district in which they live and then to be redistrict out and then be elected outside that district into the previous district? Is that rare? I assume it is.

PROFESSOR BASTRESS: It certainly happens, it's not that common because it's hard to . . . , it's harder to get elected if you don't live in that district. So a person who wants to run for Congress traditionally would choose to run in the district

SENATOR FOSTER: You don't know a specific example?

PROFESSOR BASTRESS: I do know that it happened in Florida. And if you are asking if whether districts move people that live in a district and their district lines are redrawn, I think I've read that has happened, I could not quote you or cite you to what that example is.

It isn't that hard. If it happens where a person has previously represented the majority of the district and then the line is drawn that puts them outside the district, then that person would already have some kind of a relationship with the voters in that district and wouldn't be that improbable that they could still get elected.

SENATOR FOSTER: Thank you.

CHAIR: OK. Thank you. Are there further questions for the professor? All right. Thank you very much.

What we're going to do now let's go ahead and move if we could, Jake, if you could pass out all four amendments and have all four of them in front of us and we'll take them up in the order in which I think that they were presented to Jake [inaudible]

The order of the amendments as we're passing out, so you know, is the Prezioso Amendment No. 1. That's the first one. The second one is Prezioso Amendment No. 2. Then Facemire Amendment No. 1 and then the last one is Barnes Amendment No. 1. That's the order we're going to take them up.

I'd want to ask the will of the committee, if someone would let me know, we can go and we can actually go with the motions or we can have general discussion and then start with the motions. How would the committee like to handle this? Any suggestions? Senator Palumbo?

SENATOR PALUMBO: I say we just take up the amendments one at a time.

CHAIR: And let the member explain it and justify it.

SENATOR PALUMBO: We've all got the maps. We know . . .

CHAIR: OK, yes, Senator Barnes.

SENATOR BARNES: I wonder if the Senator from Braxton would yield?

SENATOR D. FACEMIRE: Yes, sir.

SENATOR BARNES: Have we seen this map before? Is this perchance what Senator Snyder provided us before?

SENATOR D. FACEMIRE: Yes. You've seen it before.

CHAIR: And, of course, Senators, if you want, with leave of the committee, Senator from Braxton you could have anybody come up and talk to us as you get to your amendment that could help provide information that could support your amendment if you wish or anybody else. OK?

SENATOR D. FACEMIRE: Thank you, Mr. Chairman. I was looking out there to see if I thought there was someone out there that could help me.

CHAIR: I know you don't need it but I just want to offer up to any member, again, this is open and transparent and I want to make sure that we get everybody's opinion on this. So, OK. So, with that, it sounds like the consensus is to just move through these amendments. OK? All right. We have before us an originating bill for redistricting for the congressional districts before us. The Chair recognizes Senator Prezioso for offering up an amendment.

SENATOR PREZIOSO: Mr. Chairman, I move to amend the bill with a strike and insert amendment and would like to explain the amendment in lieu of having it read.

CHAIR: OK. Jake, do we have that up on the board for people to look at?

JAKE: Inaudible.

CHAIR: Is that one of them? The first one for the audience?

Please point it out. Thank you.

SENATOR PREZIOSO: I think all members should have before them a map of my proposed amendment. That's the one. It's Amendment No. 1. I think the Clerk has provided a copy of the amendment and a copy of the map. What are you doing now?

CHAIR: That's just additional information.

SENATOR PREZIOSO: That's not mine.

CHAIR: This is not the Senator's, so . . . this is for later on, just hold onto it. OK. If we go later on.

Senator I'm sorry, go right ahead.

SENATOR PREZIOSO: You recognized my amendment, so I can explain it, right?

CHAIR: Yes. Your amendment is now before us. And the Senator from Marion is recognized to explain the amendment.

SENATOR PREZIOSO: Thank you Mr. Chairman, members of the committee. You heard Professor Bastress eloquently go over the parameters of what we're trying to do here and I did pass out some maps of other states who deal with compactness and things of that sort. And what we've attempted to do here--and we had several folks that worked on this particular amendment--was look at the existing structure of our three congressional districts taking into consideration the political parties, the individuals that are elected in those particular districts at that time and try to maneuver some of the counties to make it more compatible where

there are certain interests and keep the districts intact. And that's basically what this amendment tries to do. It basically keeps the Eastern Panhandle intact by adding Mineral and Grant County. And I know the Senator from Berkeley and the Senator from Jefferson were very concerned about compactness of the Eastern Panhandle. This very much does exactly that. And, at the same time, it decreases the distance from one end of the state to the other by going basically from Putnam County to Jefferson County. And, thirdly, it does what Professor Bastress had mentioned about political parties. We're in a state where it's a 3-to-1 Democratic Party. This map, as compared to the one that we're working off of, improves Democratic performance from 50.9 to 52.3. It also creates in the first district a less expensive district to run in by taking the Washington, D. C., media out of it. When you have to run in Mineral and Grant County, you've got to buy D. C. media which is absolutely expensive. And it also deals with the district, the second district is tending more towards a conservative district. It just reinforces that second district as more conservative.

So, both parties ought to enjoy the benefits of that particular entity of my plan. And then, also, I think Congressman Rahall would certainly like this in the fact that it does the Mason County flip or flop, or whatever you want to call it. And, it also, overall, I think, it does create a more compact district, less expensive. And I know it has been called several different

things, but I see it more as fair and balanced. I see it more as a fulcrum--as a scale to balance things out. I would solicit your support on this amendment.

CHAIR: Thank you, Senator. Well done.

OK. Questions?

Yes, Senator Barnes.

SENATOR BARNES: Would the Senator yield?

CHAIR: The Senator yields.

SENATOR BARNES: You have statistics on the performance making it more of a 52 percent Democratic district than No. 1. What are your statistics of what the balance would be in District 2 after these changes were made?

SENATOR PREZIOSO: I don't have those before me; I see you have them before you.

SENATOR BARNES: No, actually, I don't. But I know what the vote totals are but I don't have performance

SENATOR PREZIOSO: I would say it would be considerably conservative than Democratic.

SENATOR BARNES: Thank you, sir.

CHAIR: Further questions?

The Chair can ask a question.

No, I just wondered, on your deviation, your

[inaudible]

Well, maybe, well, let's go ahead. Counsel, can you tell us

what's the overall population deviation? Just read that, if you could, the absolute overall range but also the relative overall range. And, I think, it was testified that Bob, Professor Bastress said that anything under one percent. But, what would this map take us as far as distribution of population--the one person, one vote?

MARK MATKOVICH: Thank you. Good afternoon. Mark Matkovich, Counsel to the Senate Majority Leader.

The mapping software utilized by the Senate produces a Population Summary Report that corresponds to the draft map that is before you. I'll defer any of the questions to Professor Bastress you may have; but for the purposes of the record and those listening to streaming, I will read the numbers on this report so everyone can hear these numbers.

A reminder: The total population of West Virginia is 1,852,994. The ideal district population, again, that is the ideal district population is 617,665. In the plan that Senator Prezioso has moved to amend, we will see a population range from 614,672 to a high of 622,181. It appears that District 1 would be the low of 614,000 and some. District 2 would have the highest population of 622,181. The report goes on to state, to give you some facts and figures, the ratio range is 1.01; the absolute range is from a -2,993 to a high of 4,516. Again, the -2,993 pertains to District 1 and the 4,516 pertains to District 2. The report goes on to

state that the absolute overall range is 7,509. Relative range is -.048 percent [sic] to a +.73 percent. The relative overall range, therefore, would be 1.22 percent. The absolute mean deviation is 3,011. The relative mean deviation is .49 percent and the standard deviation is 3,979.63. Please bear in mind, members of the committee, it's been a long time since I've had deviations, so, keep that in mind if you ask about the statistics.

CHAIR: Any questions for counsel?

OK. Thank you, counsel, for giving us

Any further questions for the member's amendment? Any further questions?

OK. All right. Do you want to close? Or do you just want to vote it?

[inaudible]

OK. All right. OK. If there is no further questions, then we have the amendment, the first amendment from the Senator from Marion before us.

All those in favor of the motion to pass his amendment, signify by saying "aye".

COMMITTEE MEMBERSHIP: Aye.

CHAIR: Opposed, "no".

COMMITTEE MEMBERSHIP: No.

CHAIR: Senator, it was close; but I would have to prevail that the nos appears to have it. The nos do have it. The

amendment fails.

OK. See how we're working through this. We're doing all right. We have three more left.

OK. Senator Prezioso is recognized for another amendment.
Senator Prezioso.

SENATOR PREZIOSO: Mr. Chairman, I move to amend the amendment and would like to explain it in lieu of having it read.

CHAIR: OK. We have the amendment

SENATOR PREZIOSO: Amend the bill.

CHAIR: OK. We have Senator Prezioso's amendment before us.
Senator Prezioso.

SENATOR PREZIOSO: Amendment No. 2. Basically what it does is simply take Ritchie out of the second district, put it back into the first. It takes Tucker out of the . . . and puts Tucker back into the second district. It's a little more compatible. Obviously, nobody liked crabs; so this is maybe a little bit more amicable an amendment.

For all of the same reasons I expressed before: Compactness of the district; makes it shorter; keeps communities of interest intact; it does look at the existing members of Congress and, I think, gives them some advantage. I urge the adoption of the amendment.

CHAIR: Counsel, you don't have to read through all of them, but read through the relative as far as deviation of population,

absolute overall range, relative overall range, what as far as where this fits in population.

MARK MATKOVICH: Again, for the benefit of the audience who is behind me who don't have a copy of the report and for anybody listening on the streaming, I will try to hit the highlights. As a reminder, the ideal population is 617,665. In the plan proposed by Senator Prezioso we would have an absolute range of -1,524 to +1,208. According to this plan, the District No. 2 would be the high with 618,873 people and it would be District No. 3 with the fewest number with 616,141. That's an absolute overall range of 2,732 people for a relative overall range of .44 percent.

CHAIR: OK. Any questions for the counsel? Any questions for counsel?

OK. Any questions or comments?

If not, the Chair recognizes the Senator from Marion to close.

SENATOR PREZIOSO: Thank you, Mr. President, I mean, Mr. Chairman.

Members of the committee, you know, as I, in all seriousness when you look at this district, you look at what the existing district would be, it does make it more compact, more evenly balanced as far as the number of voters. It certainly improves the performance for individuals in those existing positions right now. You know, again, Congressman Rahall shouldn't have any objection. It again allows Mason County to go into the third district. It's

more compact overall and less expensive to run in. I urge the adoption of the amendment.

CHAIR: OK. You heard the Senator. The motion is before us by Senator Prezioso to amend.

All those in favor of that motion, signify by saying "aye".

COMMITTEE MEMBERSHIP: Aye.

CHAIR: Opposed, "no".

COMMITTEE MEMBERSHIP: No.

CHAIR: It appears the nos have it. The nos do have it. The motion fails.

OK. All right. Next amendment. Moving right along.

Senator Facemire is recognized for a motion.

SENATOR D. FACEMIRE: Thank you, Mr. Chairman. I would like to move to amend this bill [inaudible] strike and insert. In all fairness, I had help with this and I believe Senator Snyder would probably explain this better than I could [inaudible].

CHAIR: Sure. But if we could get counsel before Senator Snyder comes. Let's get counsel an opportunity to read the ranges again. But for those who are listening on the streaming I know we have the reports here but the audience, they do not have that. Just to look at the population variations and the deviations of that. OK. So, counsel, if you could go through Senator Facemire's amendment and what does it do as far as the one person, one vote.

MARK MATKOVICH: The Population Summary Report respecting the amendment by Senator Facemire. Again, the ideal 617,665 people. In this report the population would be 616,141 as a minimum to 618,753 as a maximum. The absolute range would, therefore, be from -1,524 to a +1,088 for an absolute overall range of 2,612. With that in mind, the relative overall range would be .42 percent. According to this report, the District No. 2 would have the most number of people and District No. 3 would have the least.

CHAIR: OK. Also, I want to mention, members, members were passed out different maps. These are comparisons of the variations of population and compactness. And, I think, this one is in there along with the next one that's going to be coming up. So, you can--we only have two left--you can compare the two amendments that are coming up before us.

Senator from Braxton, Senator Facemire, you wanted leave of committee to recognize Senator Snyder?

With leave of the committee, Senator Snyder, would you like to come forward and shed some light on this amendment?

SENATOR SNYDER: Thank you, Mr. Chairman. Members of the committee, thank you very much. And I will be as brief as possible. I believe everyone has seen my map, but there are several things that I have not impressed.

This map, the original map was actually generated by me by Legislative Services here in the basement a year ago. That was

before the census came out and, actually, Congressman Mollohan was the sitting congressman. So, it was not, it didn't change the theory. I was trying to come up with three compact districts and that's what I've done. And that was exactly what I was trying to achieve with three separate regions of the state. The last two amendments you have--and, again, I don't want to, with deference to Senator Unger's originating bill--you've got the originating bill and these two amendments. And, I think, the order you've taken them in, these are your two choices. So, I will compare the two--which, I believe, is Senator Barnes Amendment on the right which is moving Mason County from the second to the third

CHAIR: So, Senator, are you comparing the last two amendments?

SENATOR SNYDER: Yes, I am comparing the last two.

CHAIR: So, the one on the left is Senator Facemire's Amendment.

SENATOR SNYDER: Right.

CHAIR: And the one on the right is Senator Barnes Amendment that is the next one.

SENATOR SNYDER: Yes. I am not explaining that or promoting it for Senator Barnes, but here is what's left on your amendments.

In addition, I'll start that the comparison of the current second which is part of the main reason that I went to this task for a year is I am very dissatisfied with the configuration of the

second. At least the people in my area of the state feel disenfranchised because of that district--the longest in the nation this side of the Mississippi River. So, there are obvious reasons why one might feel that way in that long shoestring district, trying to get away from that.

A couple of points that I did not realize until listening to the earlier speakers that the current second congressional district which your next map, next amendment of Senator Barnes would maintain the integrity of the second as it exists today less Mason County. Why wouldn't you do that? One of the operative things--and I am going to get into the numbers on my map--is in 2001 and it was, as Senator Palumbo noted, upheld in federal court. The major standard there was to get as close to the lowest deviation as possible just to learn today that that deviation on that map 20 years ago was .09. That is very, very, very low. It has to be below one percent. My map, the standard range of deviation on the left is .42. The Mason County flip/flop, whatever, the standard range of deviation is .79. My map is roughly half of your next choice in amendments. But, again, this is not the same district so these numbers What is happening here, you're dealing with different numbers completely. This is not a scenario when it was adopted, and possibly rightfully so, with an extremely low deviation. Because Karcher, on the other hand, also in testimony you've heard, what was thrown out was a deviation of .64. So, the

courts have ruled in Karcher .64 as being too high. My map is .42. It's the lowest you've seen today. It's lower than the Senator from Marion's maps; it's lower than both of those. It's lower than the Mason County flip; and, of course, it's not lower than the perfect choice if that's the will of the committee. Maybe that's where you are going, not to accept any of these amendments. But I wanted to draw out the difference in those.

I think it's noteworthy without prolonging this: It keeps regions of the state. Obviously, the east is in the east. The coalfields in southern West Virginia--it keeps its autonomy. And yet from Kanawha County all up to the chemical plants and up the Ohio River, you have so much in common in that area of the state because of the Ohio River and the development over the years.

But last and least, and I will end, Mr. Chairman, in your packets you've seen, or if I could get counsel to hand this out, it probably doesn't matter; but what they're handing out is a map of three congressional districts very similar in layout of regions of the state that look very similar to my map. This is the 1863 congressional districts. I think to look back that far historically--now, I won't bore you how that stayed that way in many, many respects until the 1991 longest congressional district this side of the Mississippi--so something drastically changed.

But when our state was formed and we were a brand new state the configurations of the district were very similar to this. And

I think that's noteworthy. But what you are looking at is the lowest deviation--with the exception of the perfect map--this is the lowest deviation before you today of any of the maps that you have looked at.

And I maintain that this is compact. I believe they have handed out to the committee compactness calculations. What is compactness? The court has talked about eyeball--what does it look like with the naked eye. Is it compact or is it not? I will let each one of you make that determination. But in the packet are seven different calculations, geological calculations of what is compactness--whether that's a lower number or a higher number. And in all those cases in your packet--I believe we have handed that out, counsel--my map wins. It's in with the perfect plan on top. Those compactness Why that math is important: You can by at least seven different commonly used analysis calculate compactness. Some of it is length versus width; that's the simplest one. But there are others that are used. This map wins on all of those. So, when it comes to the math and I would ask your serious consideration for deference to the citizens of the Eastern Panhandle, let's make West Virginia with congressional districts back to what it should be and move forward.

Thank you, Mr. Chairman.

CHAIR: OK. Any questions for Senator Snyder?

Just one before . . . Senator Snyder, I just want to make

clear that you brought those boards. Right.

SENATOR SNYDER: Yes.

CHAIR: You did those yourself.

SENATOR SNYDER: They are--absolutely--and they are copies of my map exactly which originally came

CHAIR: Blown up. I don't want the committee to think that our committee provided any additional visual for you. You brought those yourself.

SENATOR SNYDER: Oh, no, no. Absolutely, I did. And they all, both of these maps came from Jake in our Redistricting office, so they are all generated internal but I'm providing them.

CHAIR: But your brought the boards. But you did the boards and put it up there and stuff.

SENATOR SNYDER: And the easels.

CHAIR: OK. I just want to make sure everybody don't feel that they should have a special board up there.

Senator Facemire brought them.

CHAIR: Let's see if there are any questions for Senator Snyder before we let him go.

Senator Barnes, did you have a question?

Speak to the bill, OK.

Any questions for Senator Snyder? Anybody? All right, Senator Snyder, thank you very much. Appreciate it.

OK. Before I recognize Senator Facemire to close, any member

wishing to speak on the amendment?

Senator Barnes.

SENATOR BARNES: Thank you, Mr. Chairman.

Certainly in all due respect to the good Senator from Jefferson who has done an excellent job of putting together a map that really divides the state into three sections as all of them have, I would make a comment.

First of all, he brought in history and showed a map here that lays out the district very similar to the original district. But I also would like to point out that historically West Virginia as we have looked at our maps every ten years--unless we had to add a district or remove a district--historically we have not changed our districts substantially. And I believe that is because in history most people have been very happy with their representation.

Secondly, there has also been the comments made--although not necessarily today--that the Eastern Panhandle certainly has nothing in common with the district as it moves west. And I will also point out a fact from history: That Charles Town and Point Pleasant in the present district that is laid out probably played the most significant roles of any two towns in keeping the Union together during the Civil War. There is a tremendous history there that joins the Eastern Panhandle to the Ohio River.

Secondly, we have, Senator Snyder and I, you know, we both represent the Eastern Panhandle. And I will have to be

respectfully disagreeing with Senator Snyder when we say that the people are unhappy. Not only in my district across the Eastern Panhandle, the Potomac Highlands. In my unsuccessful run for Governor, I was in 53 of the 55 counties. I attended nearly every Redistricting meeting that was held around the state. Nowhere did I hear anyone complain about their representation, no matter who it was, or complain about the district, the way it was laid out. There were no complaints. And it would be my suggestion that we not move at this point and break with history and substantially change a district that the people are very, very happy with at this time. And I urge the defeat of this amendment.

CHAIR: OK. Thank you, Senator. Any other Senator wishing to speak before I recognize Senator Facemire to close? If not, Senator Facemire.

SENATOR D. FACEMIRE: Thank you, Mr. Chairman.

I think if we look at this map right here and we just want to be good Senators trying to the best thing for our state, our map is overwhelmingly better than the other ones that's been presented. There's no doubt that our display of maps are so much bigger, because it's just so much better map to go with. And, I think, that as you would look at this, you would see that this does serve the state and the citizens very well. And, for that, I would urge adoption of this map.

CHAIR: OK. Thank you very much, Senator.

OK. We have before us Senator Facemire's amendment. All those in favor of the amendment, signify by saying "aye".

COMMITTEE MEMBERSHIP: Aye.

CHAIR: Opposed, "no".

COMMITTEE MEMBERSHIP: No.

CHAIR: Boy, that's close. It appears the nos have What's that? Hold on. Hold on. Was there a roll call?

[inaudible]

OK. It appears the nos have it. The nos do have it. The amendment is defeated.

OK. I just want to thank the Senators for a very spirited debate. And, Senator Snyder, thank you very much.

Next amendment. Senator Barnes is recognized for a motion.

SENATOR BARNES: Thank you, Mr. Chairman.

I move to amend the present bill to the Barnes Amendment No. 1 which lays in front of us which leaves the second congressional district intact except for the change from Mason County to the third district, leaving the third intact, and leaving the first congressional district entirely with [sic] intact.

CHAIR: Counsel, please come forward and give us the Population Summary Report on this particular amendment.

MARK MATKOVICH: Thank you. Senator Barnes Amendment Population Summary Report reflects the following:

Again, the ideal is 617,665 people. The population range for

this amendment would be from 615,991 to 620,862; that's an absolute range of -1,674 to a +3,197. The relative overall range would be .79 percent. The absolute overall range of people would be 4,871. The districts are as follows: District No. 1 would be a population of 615,991 that is with a deviation there of -1,674; District No. 2 would be a population of 620,862 with a deviation of 3,197; and, lastly, District No. 3 would be a population of 616,141 with a deviation of -1,524.

If there are any further questions, I am sure Professor Bastress or I might be able to answer them, but that is what the Population Summary Report for Senator Barnes Amendment contains.

CHAIR: OK. And you went over the relative overall range.

MARK MATKOVICH: The relative overall range, again, is .79 percent.

CHAIR: And the overall, I guess, person range is

MARK MATKOVICH: The absolute range was -1,674 to +3,197 with the absolute overall range is 4,871.

CHAIR: OK. Thank you. Questions of counsel.

Senator Barnes.

SENATOR BARNES: Counsel, as I understand it then, we are below the one percent range which has been the standard previous to this in establishing deviations. Is that correct?

MARK MATKOVICH: I am reading the Population Report to be a relative overall range of .79 percent which is less than one

percent. Yes.

SENATOR BARNES: Would it be possible, if we really wanted to achieve perfect balance, since we have the capabilities with a computer model, that if we wanted to take this district as we have amended it here and we wanted to tweak it to perfect balance, would it be possible for us to be able to do that by looking at precincts since the bill itself has divided two counties already? Would it be possible for us to make a division in a couple of counties north and south and achieve perfect balance?

MARK MATKOVICH: That's not the amendment that I have before me, Senator, and I can't really speak to that; but the computer software allows us to do many, many things. Yes.

SENATOR BARNES: Thank you.

CHAIR: OK. Any further questions for counsel?

Senator Foster.

Professor Bastress, can you come forward again?

The question is: If it is within the one percent deviation, you mentioned a case where Tell us what does that means. Is it one percent, or 6. or .6 or

PROFESSOR BASTRESS: No, it was, as I recall, .64 percent deviation. The court said that the deviation was not justified. New Jersey tried to argue that it needed the deviation to respect local and municipal lines; and the court said there were plans out there that respected municipal lines and achieved a greater

equality. And, so, New Jersey was not consistently applying what is a legitimate policy but was not consistently applying it so the court concluded it was not a good faith effort to maximize equality.

CHAIR: So, in essence, would the .79 be over [inaudible]

PROFESSOR BASTRESS: Well, it's larger than the .64; that's true. The court did not say .64 is necessarily unconstitutional; but it was in that case because it did not reflect a good faith effort to achieve perfect equality. Because there wasn't a consistent application of a particular principle.

CHAIR: OK. Hold on, Professor, I think I may have a
Senator Hall, do you have a question?

SENATOR HALL: Restate.

It appears then but that this particular amendment at issue is not that municipal problem, it doesn't appear.

PROFESSOR BASTRESS: Right. I think if I were defending that deviation I would say it probably is necessary to respect county lines. And, of course, that plan does it consistently. So, it would be a little bit different from that struck down in New Jersey.

SENATOR HALL: That is what I was thinking, because of the other issue--you brought it up--was municipal boundaries and we could understand that. But in this case county lines are what they are and I think that would be a justifiable argument to keep it

that way.

CHAIR: Any further questions?

Senator Palumbo.

SENATOR PALUMBO: Thank you, Mr. Chairman.

Professor, would this be a more defensible plan if we took 1,600 or so people out of the northern part of Wirt County and put it in the first district and 1,500 or so people out of the southern part of Randolph County and put it in the third district to come closer, splitting up those counties, but coming closer

PROFESSOR BASTRESS: That could be easily defended from a federal court challenge, or it could be easily defended against a federal court--I shouldn't say easily; you would still have the issues from the Stone case--but in terms of an equal protection challenge, if the districts are equal, there is no basis for challenging it. Now you would still have some issues under the state constitution possibly.

[inaudible]

CHAIR: Please, unpack that.

What's under the state constitution? In what way?

PROFESSOR BASTRESS: Stone said that the district Stone was a federal court holding that compactness was satisfied that the state supreme court does not have to follow that. It could reach a different conclusion about what's compact and what isn't. And there is nothing in our case law that would indicate

where the court would go on that. Or at least no specific holdings. And then the other issue would be the issue of whether whole counties are required. There would be an issue under this plan as to whether that is a sufficient reason to justify the deviation. Those would be the issues.

CHAIR: Any further questions? I'm sorry. Professor Bastress. Well, OK. Any further questions for Professor Bastress?

OK. Thank you.

Staff has just told me that these are not maps we can go in and just tweak right here. So, if there is going to be an amendment to the amendment, then we are going to have to just recess, get that amendment ready. But I am just wanting to open that up as a possibility if that's what's discussed.

OK. Any comments?

Senator Palumbo.

SENATOR PALUMBO: Thank you, Mr. Chairman.

But that is an amendment. I mean, if we adopt the amendment offered by Senator Barnes, what I just talked about as an amendment could be offered on the floor if someone so chose to do that.

CHAIR: I believe so. Karl, that's right?

He couldn't hear. I believe that's the case. Yes, sir. Hold on. Stand by.

Senator, did you get your question answered there?

SENATOR PALUMBO: It would be a recommendation that came out

of this committee that we could amend any way on the floor.

CHAIR: OK. Well, OK. Thank you. Further comments.

I believe, Senator Miller.

SENATOR MILLER: I don't like this map either. So, I don't know where I'd go from this point. The only good thing about this, the only thing that I can understand about this is that it keeps the core of the congressional district. That's the only saving factor I can see. The numbers are wrong. I think the compactness is wrong; but it keeps the core of the congressional district. But, I think we have no other choice. This is the last choice or we go back to the original, is that correct?

CHAIR: We can always If this committee wants to do other amendments, we can work on them.

SENATOR MILLER: I don't have that.

CHAIR: We can We're not rushing this.

SENATOR MILLER: This does keep the core of the congressional district, but I have problems with this map, too. I just have problems. The looks of it I know what the people of the Eastern Panhandle have said. I know what the people of the Northern Panhandle have said. Either one of those maps does not keep either of those groups happy. I realize that.

CHAIR: Like I said, if members wish to try to do additional amendments, we can do so. OK. We don't have to vote right now; we can continue working on it. But that's the will of this

committee. If a member will speak up and say: I'd like to offer an amendment; can I get some time. I am more than willing to. We recess and get that done. We can come back later and continue working on this.

SENATOR PLYMALE: Move the previous question.

CHAIR: Well, hold on.

[inaudible]

Yeah, I didn't recognize you, Senator.

OK. So, now, Senator Barnes, do you wish to close?

SENATOR BARNES: Yes, I do, Mr. Chairman, if all the comments are in.

You know, not only are we keeping the core of a district together; but we're keeping the core of three districts together. And I think that's very important; because, you know, when you look at the southern district, primarily we certainly have a coalfields district. In the northern part, I can tell you that the areas around Keyser, the areas around Marshall County and all, there's a lot of commonality between those two areas even though they're on different sides of the state.

When we look at the second district here, the commonality is striking. Number one, we have the two largest counties, populations, in the state in Kanawha County and Berkeley County. And with large populations, you face similar challenges--similar challenges in law-enforcement, similar challenges in growth, similar

challenges with your cities within the area. The cities in Berkeley County are certainly very similar to the cities in size and challenges in Kanawha County. The other thing is is we have two primary growing areas of the state. Mon (Monongalia) County is a growing area and there is certainly a lot to say about that. But there are two primary areas in the last ten years that we have seen tremendous growth: And that is in the Eastern Panhandle counties and in Putnam County. And as we look at this map, we have the two growing areas of the state of West Virginia on each end of this district. And that certainly shows a great deal of commonality. And as you look through the district from one county to another as it joins together--whether it's Lewis and Upshur, you've got to talk about gas; if you talk about Randolph and Pendleton, you've got to talk about hardwood and tourism; if you look at Hardy and Hampshire, you've got to look at the poultry industry. So, I mean, no matter where we go on this map, we see a continuity of interest, communities of interest lay within this district. And, I think it's very, very defensible. And, Mr. Chairman, I urge passage of this amendment.

CHAIR: OK. All right. We have amendment before us moved by Senator Barnes. All those in favor of the amendment, signify by saying "aye".

COMMITTEE MEMBERSHIP: Aye.

CHAIR: All nos, say "nay".

It appears the ayes have it, the ayes do have it. The amendment carries.

Senator from Boone is recognized.

SENATOR STOLLINGS: Thank you, Mr. Chairman.

I move the bill, as amended, out to the floor with the recommendation that it do pass.

CHAIR: All right. You've heard the motion. Any discussion. Any discussion.

If not, all those in favor of the motion, signify by saying "aye".

COMMITTEE MEMBERSHIP: Aye.

CHAIR: Opposed, "no".

It appears the ayes have it. The ayes do have it. The motion carries. The bill is reported out with recommendation that it do pass.

CHAIR: Senator from Boone is recognized for a motion.

SENATOR STOLLINGS: I move we adjourn, sir.

CHAIR: All those in favor of the motion, signify by saying "aye".

COMMITTEE MEMBERSHIP: Aye.

CHAIR: Opposed, "no".

It appears the ayes have it. The ayes do have it. We are adjourned.

EXHIBIT P

Reapportioning congressional districts

(Adoption of Senator Snyder's amendment

to Senate Bill No. 1008)

REMARKS OF

HONORABLE

BROOKS F. MCCABE, JR.

Friday, August 5, 2011

SENATOR MCCABE: Mr. President, I was not going to comment on this amendment, but there have been a number of discussions today about the key role that Kanawha County plays and how we should look at the redistricting. I want to assure the Senate that Senators from the Eighth and Seventeenth districts have paid a lot of attention. I have really unqualified respect for the Senator from Jefferson. I absolutely understand his motivation, why he is proposing the amendment; and I believe in my heart that he is doing good work--especially for the members of his district.

I would like to make a few comments so the Senate, as a whole, can have a better understanding of why we in the Eighth and Seventeenth districts here in Kanawha County are hesitant to go with this amendment. Or, at least, I personally am. We're talking about moving 47,000 to 52,000 people from one district to another. The 52,000 people that are in Jackson and Roane, particularly, and

Wirt are important to Kanawha County. We, in my home county, need to look at that. We understand the importance of creating a unified Eastern Panhandle; we also understand the importance of a unified economy around which our district operates. And Jackson County, Putnam County and Roane County are key to how we, as an economy, operate. We are talking about moving Jackson and Roane counties as well as Wirt to the district to the north of us, to the First District and acquiring three other counties in the bottom of the Eastern Panhandle in the Second District. That has an effect on how we view the world, how our economy and how our counties interact immediately around us. I would like to just suggest that is one of the concerns that we have.

We are looking at the plan that was approved yesterday and is before us and here trying to be amended. The plan that was approved yesterday requires one county to be moved from one congressional district to another. This particular amendment requires seven counties to be moved from one district to another. We have heard that this is like a long string, this unbelievably long district. As best I can tell, the amendment before us in no way affects the length of the district. It still runs from Putnam County all the way up to Jefferson County. So, we still have a long district. In fact, the action that was taken yesterday by moving Mason County reduced the length of the district.

In summary, I have to thank the Acting Senate President for

allowing us several hours this afternoon to visit with some of our constituents to find out better how those of us in Kanawha County might look at this. It gave us a clear opportunity to examine the proposed amendment. We availed ourselves to talk to some people within the county. Without exception, it is being suggested to us that the amendment before us probably should not have our support even though we understand it is extremely important to the Senator from Jefferson. We understand his issues; we understand what he is trying to accomplish. We applaud him for his action and his diligence. But as we look at the big picture, the amendment does not work with moving seven counties between districts and having a significant population shift from our immediate economic area to another part of the state that is more distant and less interactive with us. We in Kanawha County, or more correctly, myself as a Senior Senator from the Seventeenth will not be able to support the amendment.

Thank you, Mr. President.

EXHIBIT Q

Reapportioning congressional districts

*(Adoption of Senator Snyder's amendment
to Senate Bill No. 1008)*

REMARKS OF

HONORABLE

MIKE HALL

Friday, August 5, 2011

SENATOR HALL: Mr. President, just briefly, two or three responding comments. First of all, I absolutely commend the Senator from Jefferson for all of his passion and work on this particular issue.

I also wanted to speak positively about the process that we have proceeded with in the Senate when it came to our particular redistricting issues. You held task force meetings around the state. I happened to be on that task force and was not able to attend all of those meetings but did get to attend some of them.

One of them, Mr. President, was up in your area. As we went in to listen to the conversation about redistricting, we heard a whole lot about this congressional race. And, as I have had pointed out to me, in that particular meeting there were numerous people there who said we want to do this Mason County flip.

The public was aware of the issue at hand. And, I even made

the comment, I've been reminded that, as a representative of Mason County, that simply moving them to fix the problem without consulting with them may be offensive to them. And I have checked with the leadership over there; and, you know, they're really not that happy about losing their current congresswoman; but at the same time they understand what's going on. I haven't had a lot of push back.

As a matter of fact, most of my e-mails have been for that particular change. Notwithstanding some of the points that have been made by the Senator from Jefferson, this plan that we have before us did come out by a unanimous voice vote, I believe, out of the committee. There is a difference in variance which we could fix by an amendment--there are two amendments but they would divide counties--but we could fix the variance issue like the perfect plan did. We could do that.

But it does have a higher variance. I listened to Professor Bastress's explanation the other day that one percent threshold is the point of danger. The court battles in the past, the one that was brought to the court in Pennsylvania, I believe because of a .6, was really over a municipal issue. It would be nice to have this plan before the committee to have him comment, but we're not at that point. We're here today. But I don't think this plan would be successfully challenged.

I would just like to further expand on the fact of the

openness of this process. At the Wheeling hearing and other places, a lot of the public out there believed that we had settled this question. I don't impugn anybody's motives, it's just the nature of our process from our perspective, but from the public's perspective, you know, this comes up. It's been known about for four or five hours. I understand there's probably been a lot of discussion among the members today as to whether to vote for it or not. So it's kind of late to the game. And I would not want it to seem that suddenly something happened at the last hour. I believe the public had settled, at least the public talking to me on where we were. And that's one of the main reasons I do believe that the plan that's before us, unamended, would withstand the court challenge. There may be, as obviously has been pointed out in the numbers, a difference in variance which could be fixed.

But I would encourage the members to stay where we are. We've heard from the public on this. If we pass this amendment, we're probably going to be here a few days more to get it through the process. I don't know where it would be in the House. We'll probably have to be another 24 hours here to get input to the senators on this plan. But generally I would say that the citizenry that has communicated to me who are affected in these districts are satisfied with what we have done already.

I think we should just proceed forward, defeat this amendment and send it over to our fellow legislators in the House. The

version that we have up there, the product of an open process, the product of the committee work and two or three hours of hearings. And I commend the Majority Leader for his work on this. It's probably been the most open in the history of the state. And we have that product up there; and, I think we ought to stick with it. So, those would be my comments. And I would ask you to reject the Senator's amendment.

EXHIBIT R

Plan: Perfect Map
 Plan Type:
 Administrator
 User:

Plan Components Report

POPULATION	
District 1	
Brooke WV County	24,069
Calhoun WV County	7,627
Doddridge WV County	8,202
Gilmer WV County	8,693
Hancock WV County	30,676
Harrison WV County (part)	6,185
Jackson WV County	29,211
Kanawha WV County (part)	121,401
Marion WV County	56,418
Marshall WV County	33,107
Monongalia WV County	96,189
Ohio WV County	44,443
Pleasants WV County	7,605
Ritchie WV County	10,449
Roane WV County	14,926
Tyler WV County	9,208
Wetzel WV County	16,583
Wirt WV County	5,717
Wood WV County	86,956
District 1 Subtotal	617,665
District 2	
Barbour WV County	16,589
Berkeley WV County	104,169
Braxton WV County	14,523
Clay WV County	9,386
Fayette WV County	46,039
Grant WV County	11,937
Greenbrier WV County	35,480
Hampshire WV County	23,964
Hardy WV County	14,025

Plan: Perfect Map	Administrator:
Type:	User:
POPULATION	
District 2 (continued)	
Harrison WV County (part)	62,914
Jefferson WV County	53,498
Lewis WV County	16,372
Mineral WV County	28,212
Morgan WV County	17,541
Nicholas WV County	26,233
Pendleton WV County	7,695
Pocahontas WV County	8,719
Preston WV County	33,520
Randolph WV County	29,405
Taylor WV County	16,895
Tucker WV County	7,141
Upshur WV County	24,254
Webster WV County	9,154
District 2 Subtotal	617,665
District 3	
Boone WV County	24,629
Cabell WV County	96,319
Kanawha WV County (part)	71,662
Lincoln WV County	21,720
Logan WV County	36,743
Mason WV County	27,324
McDowell WV County	22,113
Mercer WV County	62,264
Mingo WV County	26,839
Monroe WV County	13,502
Putnam WV County	55,486
Raleigh WV County	78,859
Summers WV County	13,927
Wayne WV County	42,481
Wyoming WV County	23,796
District 3 Subtotal	617,664
State totals	1,852,994

Plan: Perfect Map
 Plan Type:
 Administrator:
 User:

Population Summary Report

DISTRICT	POPULATION	DEVIATION	% DEVN.
1	617,665	0	0.00
2	617,665	0	0.00
3	617,664	-1	0.00

Total Population: 1,852,994
 Ideal District Population: 617,665
Summary Statistics
 Population Range: 617,664 to 617,665
 Ratio Range: 1.00
 Absolute Range: -1 to 0
 Absolute Overall Range: 1.00
 Relative Range: 0.00% to 0.00%
 Relative Overall Range: 0.00%
 Absolute Mean Deviation: 0.33
 Relative Mean Deviation: 0.00%
 Standard Deviation: 0.58

Plan Name: Perfect Map
 Plan Type:
 Date:
 Time:
 Administrator:

Measures of Compactness

Sum	N/A	N/A	2,147.88	N/A	N/A	N/A	N/A	N/A
Min	0.23	1.95	N/A	0.18	5.96	0.75	0.54	0.27
Max	0.42	2.20	N/A	0.20	57.35	0.87	0.64	0.34
Mean	0.32	2.04	N/A	0.19	37.50	0.82	0.60	0.31
Std. Dev.	0.10	0.14	N/A	0.01	27.62	0.06	0.05	0.03

DISTRICT	Reock	Schwartzberg	Perimeter	Polsby-Popper	Length-Width	Population Polygon	Population Circle	Ehrenburg
1	0.23	2.20	624.16	0.18	49.19	0.84	0.61	0.34
2	0.31	1.96	865.67	0.20	57.35	0.87	0.54	0.32
3	0.42	1.95	658.05	0.20	5.96	0.75	0.64	0.27

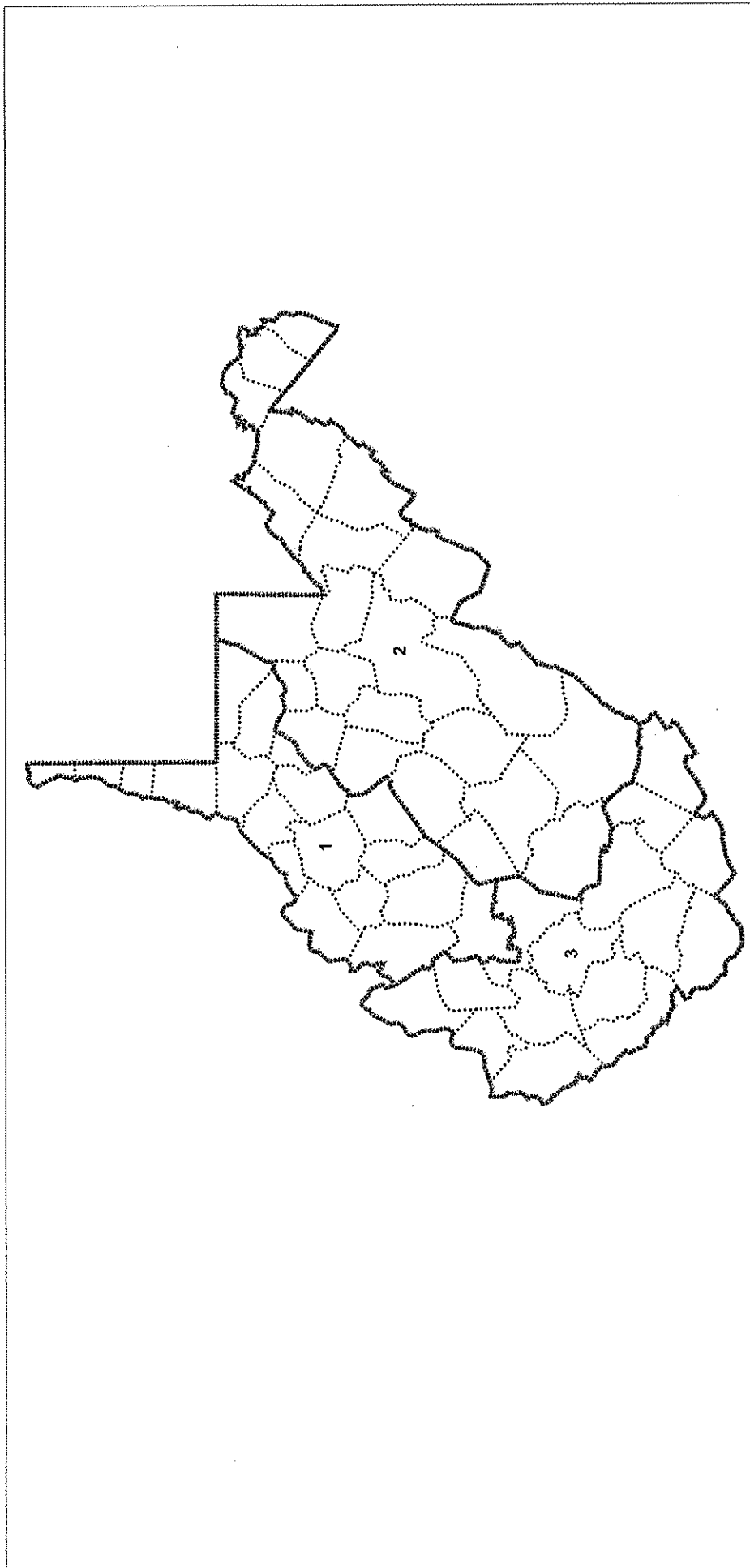


EXHIBIT S

SB ORG2 PREZIOSO AM #1 8-4

Pauley 7815

Senator Prezioso moves to amend the bill on pages two through eighty-four, by striking out all of section three and inserting in lieu thereof a new section three to read as follows:

§1-2-3. Congressional districts.

The number of members to which the state is entitled in the House of Representatives of the Congress of the United States are apportioned among the counties of the state, arranged into three congressional districts, numbered as follows:

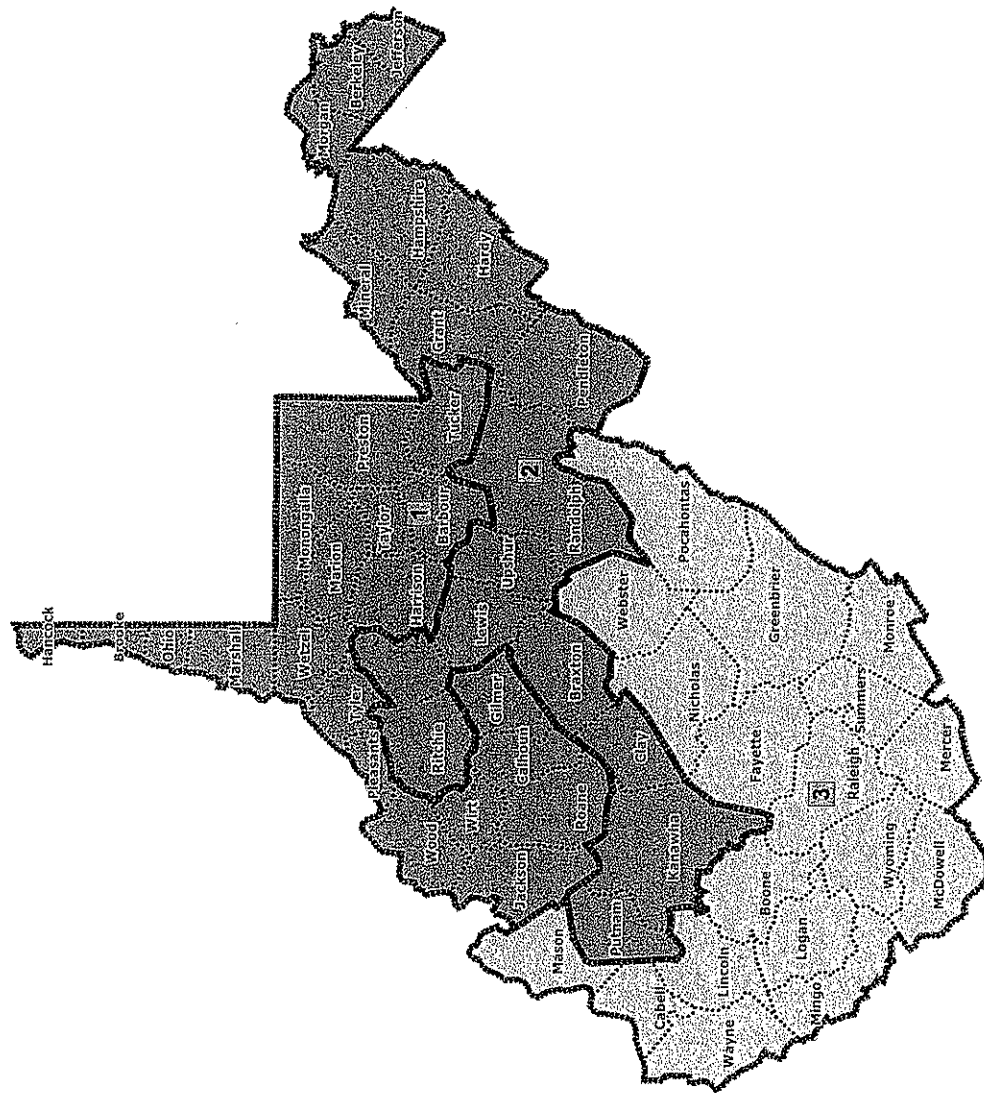
First District: Barbour, Brooke, Calhoun, Gilmer, Hancock, Harrison, Jackson, Marion, Marshall, Monongalia, Ohio, Pleasants, Preston, Roane, Taylor, Tucker, Tyler, Wetzel, Wirt and Wood.

Second District: Berkeley, Braxton, Clay, Doddridge, Grant, Hampshire, Hardy, Jefferson, Kanawha, Lewis, Mineral, Morgan, Pendleton, Putnam, Randolph, Ritchie and Upshur.

Third District: Boone, Cabell, Fayette, Greenbrier, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Nicholas, Pocahontas, Raleigh, Summers, Wayne, Webster and Wyoming.

ADOPTED

REJECTED



Plan: Prezioso Congressional 1
 Plan Type:
 Administrator:
 User:

Population Summary Report

Wednesday August 3, 2011

9:39 PM

DISTRICT	POPULATION	DEVIATION	% DEVN.
1	614,672	-2,993	-0.48
2	622,181	4,516	0.73
3	616,141	-1,524	-0.25

Total Population: 1,852,994

Ideal District Population: 617,665

Summary Statistics

Population Range: 614,672 to 622,181

Ratio Range: 1.01

Absolute Range: -2,993 to 4,516

Absolute Overall Range: 7,509.00

Relative Range: -0.48% to 0.73%

Relative Overall Range: 1.22%

Absolute Mean Deviation: 3,011.00

Relative Mean Deviation: 0.49%

Standard Deviation: 3,979.63

Plan: Prezioso Congressional 1
 Plan Type:
 Administrator:
 User:

Plan Components Report

Wednesday, August 3, 2011

9:38 PM

POPULATION	
District 1	
Barbour WV County	16,589
Brooke WV County	24,069
Calhoun WV County	7,627
Gilmer WV County	8,693
Hancock WV County	30,676
Harrison WV County	69,099
Jackson WV County	29,211
Marion WV County	56,418
Marshall WV County	33,107
Monongalia WV County	96,189
Ohio WV County	44,443
Pleasants WV County	7,605
Preston WV County	33,520
Roane WV County	14,926
Taylor WV County	16,895
Tucker WV County	7,141
Tyler WV County	9,208
Wetzel WV County	16,583
Wirt WV County	5,717
Wood WV County	86,956
District 1 Subtotal	614,672
District 2	
Berkeley WV County	104,169
Braxton WV County	14,523
Clay WV County	9,386
Doddridge WV County	8,202
Grant WV County	11,937
Hampshire WV County	23,964
Hardy WV County	14,025
Jefferson WV County	53,498

Plan: Prezioso Congressional 1
Type:

Administrator:
User:
POPULATION

District 2 (continued)

Kanawha WV County	193,063
Lewis WV County	16,372
Mineral WV County	28,212
Morgan WV County	17,541
Pendleton WV County	7,695
Putnam WV County	55,486
Randolph WV County	29,405
Ritchie WV County	10,449
Upshur WV County	24,254

District 2 Subtotal	622,181
----------------------------	----------------

District 3

Boone WV County	24,629
Cabell WV County	96,319
Fayette WV County	46,039
Greenbrier WV County	35,480
Lincoln WV County	21,720
Logan WV County	36,743
Mason WV County	27,324
McDowell WV County	22,113
Mercer WV County	62,264
Mingo WV County	26,839
Monroe WV County	13,502
Nicholas WV County	26,233
Pocahontas WV County	8,719
Raleigh WV County	78,859
Summers WV County	13,927
Wayne WV County	42,481
Webster WV County	9,154
Wyoming WV County	23,796

District 3 Subtotal	616,141
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State totals	1,852,994
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Plan Name: Prezioso Congressional 1
 Plan Type:
 Date: 8/3/2011
 Time: 9:46:55PM
 Administrator:

Measures of Compactness

8/3/2011

Sum	N/A	N/A	2,773.58	N/A	N/A	N/A	N/A	N/A
Min	0.17	2.06	N/A	0.08	6.11	0.65	0.40	0.14
Max	0.44	3.14	N/A	0.18	115.16	0.87	0.81	0.32
Mean	0.31	2.59	N/A	0.13	53.36	0.73	0.57	0.24
Std. Dev.	0.13	0.54	N/A	0.05	55.96	0.12	0.21	0.09

DISTRICT	Reock	Schwartzberg	Perimeter	Polsby-Popper	Length-Width	Population Polygon	Population Circle	Ehrenburg
1	0.30	2.58	781.91	0.13	6.11	0.87	0.81	0.25
2	0.17	3.14	1,161.79	0.08	115.16	0.67	0.40	0.14
3	0.44	2.06	829.88	0.18	38.82	0.65	0.50	0.32

EXHIBIT T

SB ORG2 PREZIOSO AM #2 8-4

Pauley 7815

Senator Prezioso moves to amend the bill on pages two through eighty-four, by striking out all of section three and inserting in lieu thereof a new section three to read as follows:

§1-2-3. Congressional districts.

The number of members to which the state is entitled in the House of Representatives of the Congress of the United States are apportioned among the counties of the state, arranged into three congressional districts, numbered as follows:

First District: Barbour, Brooke, Calhoun, Gilmer, Hancock, Harrison, Jackson, Marion, Marshall, Monongalia, Ohio, Pleasants, Preston, Ritchie, Roane, Taylor, Tyler, Wetzel, Wirt and Wood.

Second District: Berkeley, Braxton, Clay, Doddridge, Grant, Hampshire, Hardy, Jefferson, Kanawha, Lewis, Mineral, Morgan, Pendleton, Putnam, Randolph, Tucker and Upshur.

Third District: Boone, Cabell, Fayette, Greenbrier, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Nicholas, Pocahontas, Raleigh, Summers, Wayne, Webster and Wyoming.

ADOPTED

REJECTED

Plan: Prezioso Congressional 2
 Plan Type:
 Administrator:
 User:

Population Summary Report

Wednesday August 3, 2011

10:00 PM

DISTRICT	POPULATION	DEVIATION	% DEVN.
1	617,980	315	0.05
2	618,873	1,208	0.20
3	616,141	-1,524	-0.25

Total Population: 1,852,994
 Ideal District Population: 617,665
Summary Statistics
 Population Range: 616,141 to 618,873
 Ratio Range: 1.00
 Absolute Range: -1,524 to 1,208
 Absolute Overall Range: 2,732.00
 Relative Range: -0.25% to 0.20%
 Relative Overall Range: 0.44%
 Absolute Mean Deviation: 1,015.67
 Relative Mean Deviation: 0.16%
 Standard Deviation: 1,393.03

Plan: Prezioso Congressional 2
 Plan Type:
 Administrator:
 User:

Plan Components Report

Wednesday, August 3, 2011

10:00 PM

	POPULATION
District 1	
Barbour WV County	16,589
Brooke WV County	24,069
Calhoun WV County	7,627
Gilmer WV County	8,693
Hancock WV County	30,676
Harrison WV County	69,099
Jackson WV County	29,211
Marion WV County	56,418
Marshall WV County	33,107
Monongalia WV County	96,189
Ohio WV County	44,443
Pleasants WV County	7,605
Preston WV County	33,520
Ritchie WV County	10,449
Roane WV County	14,926
Taylor WV County	16,895
Tyler WV County	9,208
Wetzel WV County	16,583
Wirt WV County	5,717
Wood WV County	86,956
District 1 Subtotal	617,980
District 2	
Berkeley WV County	104,169
Braxton WV County	14,523
Clay WV County	9,386
Doddridge WV County	8,202
Grant WV County	11,937
Hampshire WV County	23,964
Hardy WV County	14,025
Jefferson WV County	53,498

Plan: Prezioso Congressional 2

Administrator:

Type:

User:

POPULATION**District 2 (continued)**

Kanawha WV County	193,063
Lewis WV County	16,372
Mineral WV County	28,212
Morgan WV County	17,541
Pendleton WV County	7,695
Putnam WV County	55,486
Randolph WV County	29,405
Tucker WV County	7,141
Upshur WV County	24,254

District 2 Subtotal	618,873
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District 3

Boone WV County	24,629
Cabell WV County	96,319
Fayette WV County	46,039
Greenbrier WV County	35,480
Lincoln WV County	21,720
Logan WV County	36,743
Mason WV County	27,324
McDowell WV County	22,113
Mercer WV County	62,264
Mingo WV County	26,839
Monroe WV County	13,502
Nicholas WV County	26,233
Pocahontas WV County	8,719
Raleigh WV County	78,859
Summers WV County	13,927
Wayne WV County	42,481
Webster WV County	9,154
Wyoming WV County	23,796

District 3 Subtotal	616,141
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State totals	1,852,994
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Plan Name: Prezioso Congressional 2
 Plan Type:
 Date: 8/3/2011
 Time: 10:07:22PM
 Administrator:

Measures of Compactness

8/3/2011

Sum	N/A	N/A	2,507.66	N/A	N/A	N/A	N/A	N/A
Min	0.17	2.06	N/A	0.10	16.11	0.65	0.40	0.15
Max	0.44	2.82	N/A	0.19	115.16	0.91	0.83	0.32
Mean	0.31	2.36	N/A	0.15	56.70	0.75	0.58	0.26
Std. Dev.	0.13	0.40	N/A	0.05	51.89	0.14	0.22	0.09

DISTRICT	Reock	Schwartzberg	Perimeter	Polsby-Popper	Length-Width	Population Polygon	Population Circle	Ehrenburg
1	0.32	2.19	648.95	0.19	16.11	0.91	0.83	0.30
2	0.17	2.82	1,028.83	0.10	115.16	0.68	0.40	0.15
3	0.44	2.06	829.88	0.18	38.82	0.65	0.50	0.32

EXHIBIT U

SB ORG2 FACEMIRE AM #1 8-4

Pauley 7815

Senators Facemire and Edgell move to amend the bill on pages two through eighty-four, by striking out all of section three and inserting in lieu thereof a new section three to read as follows:

§1-2-3. Congressional districts.

The number of members to which the state is entitled in the House of Representatives of the Congress of the United States are apportioned among the counties of the state, arranged into three congressional districts, numbered as follows:

First District: Braxton, Brooke, Calhoun, Clay, Gilmer, Hancock, Jackson, Kanawha, Lewis, Marshall, Ohio, Pleasants, Putnam, Ritchie, Roane, Tyler, Wetzel, Wirt and Wood.

Second District: Barbour, Berkeley, Doddridge, Grant, Hampshire, Hardy, Harrison, Jefferson, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker and Upshur.

Third District: Boone, Cabell, Fayette, Greenbrier, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Nicholas, Pocahontas, Raleigh, Summers, Wayne, Webster and Wyoming.

ADOPTED

REJECTED

Plan: Facemire Congressional
 Plan Type:
 Administrator:
 User:

Population Summary Report

Wednesday August 3, 2011

9:24 PM

DISTRICT	POPULATION	DEVIATION	% DEVN.
1	618,100	435	0.07
2	618,753	1,088	0.18
3	616,141	-1,524	-0.25

Total Population: 1,852,994

Ideal District Population: 617,665

Summary Statistics

Population Range: 616,141 to 618,753

Ratio Range: 1.00

Absolute Range: -1,524 to 1,088

Absolute Overall Range: 2,612.00

Relative Range: -0.25% to 0.18%

Relative Overall Range: 0.42%

Absolute Mean Deviation: 1,015.67

Relative Mean Deviation: 0.16%

Standard Deviation: 1,359.33

Plan: Facemire Congressional
 Plan Type:
 Administrator:
 User:

Plan Components Report

Wednesday, August 3, 2011

9:23 PM

POPULATION	
District 1	
Braxton WV County	14,523
Brooke WV County	24,069
Calhoun WV County	7,627
Clay WV County	9,386
Gilmer WV County	8,693
Hancock WV County	30,676
Jackson WV County	29,211
Kanawha WV County	193,063
Lewis WV County	16,372
Marshall WV County	33,107
Ohio WV County	44,443
Pleasants WV County	7,605
Putnam WV County	55,486
Ritchie WV County	10,449
Roane WV County	14,926
Tyler WV County	9,208
Wetzel WV County	16,583
Wirt WV County	5,717
Wood WV County	86,956
District 1 Subtotal	618,100
District 2	
Barbour WV County	16,589
Berkeley WV County	104,169
Doddridge WV County	8,202
Grant WV County	11,937
Hampshire WV County	23,964
Hardy WV County	14,025
Harrison WV County	69,099
Jefferson WV County	53,498
Marion WV County	56,418

Plan: Facemire Congressional
Type:

Administrator:
User:

POPULATION**District 2 (continued)**

Mineral WV County	28,212
Monongalia WV County	96,189
Morgan WV County	17,541
Pendleton WV County	7,695
Preston WV County	33,520
Randolph WV County	29,405
Taylor WV County	16,895
Tucker WV County	7,141
Upshur WV County	24,254

District 2 Subtotal	618,753
----------------------------	----------------

District 3

Boone WV County	24,629
Cabell WV County	96,319
Fayette WV County	46,039
Greenbrier WV County	35,480
Lincoln WV County	21,720
Logan WV County	36,743
Mason WV County	27,324
McDowell WV County	22,113
Mercer WV County	62,264
Mingo WV County	26,839
Monroe WV County	13,502
Nicholas WV County	26,233
Pocahontas WV County	8,719
Raleigh WV County	78,859
Summers WV County	13,927
Wayne WV County	42,481
Webster WV County	9,154
Wyoming WV County	23,796

District 3 Subtotal	616,141
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State totals	1,852,994
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Plan Name: Facemire Congressional

Plan Type:

Date: 8/3/2011

Time: 9:31:42PM

Administrator:

Measures of Compactness

8/3/2011

Sum	N/A	N/A	2,234.39	N/A	N/A	N/A	N/A	N/A
Min	0.23	2.06	N/A	0.18	38.82	0.65	0.50	0.25
Max	0.44	2.11	N/A	0.19	89.74	0.96	0.91	0.40
Mean	0.34	2.08	N/A	0.18	69.47	0.84	0.65	0.33
Std. Dev.	0.11	0.02	N/A	0.01	27.00	0.16	0.23	0.07

DISTRICT	Reock	Schwartzberg	Perimeter	Polsby-Popper	Length-Width	Population Polygon	Population Circle	Ehrenburg
1	0.23	2.11	653.78	0.19	89.74	0.89	0.54	0.40
2	0.35	2.08	750.72	0.18	79.85	0.96	0.91	0.25
3	0.44	2.06	829.88	0.18	38.82	0.65	0.50	0.32

EXHIBIT V

SB ORG2 BARNES AM #1 8-4

Pauley 7815

Senator Barnes moves to amend the bill on pages two through eighty-four, by striking out all of section three and inserting in lieu thereof a new section three to read as follows:

§1-2-3. Congressional districts.

The number of members to which the state is entitled in the House of Representatives of the Congress of the United States are apportioned among the counties of the state, arranged into three congressional districts, numbered as follows:

First District: Barbour, Brooke, Doddridge, Gilmer, Grant, Hancock, Harrison, Marion, Marshall, Mineral, Monongalia, Ohio, Pleasants, Preston, Ritchie, Taylor, Tucker, Tyler, Wetzel, and Wood.

Second District: Berkeley, Braxton, Calhoun, Clay, Hampshire, Hardy, Jackson, Jefferson, Kanawha, Lewis, Morgan, Pendleton, Putnam, Randolph, Roane, Upshur and Wirt.

Third District: Boone, Cabell, Fayette, Greenbrier, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Nicholas, Pocahontas, Raleigh, Summers, Wayne, Webster and Wyoming.

Adopted
Rejected

Plan: Barnes Congressional
 Plan Type:
 Administrator:
 User:

Population Summary Report

Wednesday August 3, 2011

12:43 PM

DISTRICT	POPULATION	DEVIATION	% DEVN.
1	615,991	-1,674	-0.27
2	620,862	3,197	0.52
3	616,141	-1,524	-0.25

Total Population: 1,852,994
 Ideal District Population: 617,665
Summary Statistics
 Population Range: 615,991 to 620,862
 Ratio Range: 1.01
 Absolute Range: -1,674 to 3,197
 Absolute Overall Range: 4,871.00
 Relative Range: -0.27% to 0.52%
 Relative Overall Range: 0.79%
 Absolute Mean Deviation: 2,131.67
 Relative Mean Deviation: 0.35%
 Standard Deviation: 2,769.99

Plan: Barnes Congressional
 Plan Type:
 Administrator:
 User:

Plan Components Report

Wednesday, August 3, 2011

12:42 PM

POPULATION	
District 1	
Barbour WV County	16,589
Brooke WV County	24,069
Doddridge WV County	8,202
Gilmer WV County	8,693
Grant WV County	11,937
Hancock WV County	30,676
Harrison WV County	69,099
Marion WV County	56,418
Marshall WV County	33,107
Mineral WV County	28,212
Monongalia WV County	96,189
Ohio WV County	44,443
Pleasants WV County	7,605
Preston WV County	33,520
Ritchie WV County	10,449
Taylor WV County	16,895
Tucker WV County	7,141
Tyler WV County	9,208
Wetzel WV County	16,583
Wood WV County	86,956
District 1 Subtotal	615,991
District 2	
Berkeley WV County	104,169
Braxton WV County	14,523
Calhoun WV County	7,627
Clay WV County	9,386
Hampshire WV County	23,964
Hardy WV County	14,025
Jackson WV County	29,211
Jefferson WV County	53,498

Plan: Barnes Congressional
Type:

Administrator:
User:

POPULATION

District 2 (continued)

Kanawha WV County	193,063
Lewis WV County	16,372
Morgan WV County	17,541
Pendleton WV County	7,695
Putnam WV County	55,486
Randolph WV County	29,405
Roane WV County	14,926
Upshur WV County	24,254
Wirt WV County	5,717

District 2 Subtotal	620,862
----------------------------	----------------

District 3

Boone WV County	24,629
Cabell WV County	96,319
Fayette WV County	46,039
Greenbrier WV County	35,480
Lincoln WV County	21,720
Logan WV County	36,743
Mason WV County	27,324
McDowell WV County	22,113
Mercer WV County	62,264
Mingo WV County	26,839
Monroe WV County	13,502
Nicholas WV County	26,233
Pocahontas WV County	8,719
Raleigh WV County	78,859
Summers WV County	13,927
Wayne WV County	42,481
Webster WV County	9,154
Wyoming WV County	23,796

District 3 Subtotal	616,141
----------------------------	----------------

State totals	1,852,994
---------------------	------------------

Plan Name: Barnes Congressional
 Plan Type:
 Date: 8/3/2011
 Time: 1:14:19PM
 Administrator:

Measures of Compactness

8/3/2011

Sum	N/A	N/A	2,617.18	N/A	N/A	N/A	N/A	N/A
Min	0.17	2.06	N/A	0.10	32.69	0.65	0.40	0.19
Max	0.44	2.90	N/A	0.18	115.16	0.88	0.79	0.32
Mean	0.30	2.47	N/A	0.14	62.22	0.75	0.56	0.25
Std. Dev.	0.14	0.42	N/A	0.04	45.95	0.11	0.20	0.07

DISTRICT	Reock	Schwartzberg	Perimeter	Polsby-Popper	Length-Width	Population Polygon	Population Circle	Ehrenburg
1	0.28	2.45	755.83	0.14	32.69	0.88	0.79	0.25
2	0.17	2.90	1,031.48	0.10	115.16	0.72	0.40	0.19
3	0.44	2.06	829.88	0.18	38.82	0.65	0.50	0.32

EXHIBIT W

Plan Name: Snyder Floor Amendment
 Plan Type:
 Date: 8/4/2011
 Time: 9:56:35PM
 Administrator:

Measures of Compactness

8/4/2011

Sum	N/A	N/A	2,537.87	N/A	N/A	N/A	N/A	N/A
Min	0.17	2.06	N/A	0.09	16.11	0.65	0.40	0.15
Max	0.44	2.85	N/A	0.18	115.16	0.91	0.83	0.32
Mean	0.31	2.37	N/A	0.15	56.70	0.79	0.58	0.23
Std. Dev.	0.14	0.42	N/A	0.05	51.89	0.13	0.22	0.09

DISTRICT	Reock	Schwartzberg	Perimeter	Polsby-Popper	Length-Width	Population Polygon	Population Circle	Ehrenburg
1	0.32	2.21	664.05	0.18	16.11	0.91	0.83	0.23
2	0.17	2.85	1,043.93	0.09	115.16	0.81	0.40	0.15
3	0.44	2.06	829.88	0.18	38.82	0.65	0.50	0.32

Plan: Snyder Floor Amendment
 Plan Type:
 Administrator:
 User:

Population Summary Report

Thursday August 4, 2011

9:48 PM

DISTRICT	POPULATION	DEVIATION	% DEVN.
1	618,555	890	0.14
2	618,298	633	0.10
3	616,141	-1,524	-0.25

Total Population: 1,852,994
 Ideal District Population: 617,665
Summary Statistics
 Population Range: 616,141 to 618,555
 Ratio Range: 1.00
 Absolute Range: -1,524 to 890
 Absolute Overall Range: 2,414.00
 Relative Range: -0.25% to 0.14%
 Relative Overall Range: 0.39%
 Absolute Mean Deviation: 1,015.67
 Relative Mean Deviation: 0.16%
 Standard Deviation: 1,325.78

Plan: Snyder Floor Amendment
 Plan Type:
 Administrator
 User:

Plan Components Report

Thursday, August 4, 2011

9:47 PM

POPULATION

District 1	
Barbour WV County	16,589
Brooke WV County	24,069
Doddridge WV County	8,202
Gilmer WV County	8,693
Hancock WV County	30,676
Harrison WV County	69,099
Jackson WV County	29,211
Marion WV County	56,418
Marshall WV County	33,107
Monongalia WV County	96,189
Ohio WV County	44,443
Pleasants WV County	7,605
Preston WV County	33,520
Ritchie WV County	10,449
Roane WV County	14,926
Taylor WV County	16,895
Tyler WV County	9,208
Wetzel WV County	16,583
Wirt WV County	5,717
Wood WV County	86,956
District 1 Subtotal	618,555
District 2	
Berkeley WV County	104,169
Braxton WV County	14,523
Calhoun WV County	7,627
Clay WV County	9,386
Grant WV County	11,937
Hampshire WV County	23,964
Hardy WV County	14,025
Jefferson WV County	53,498

Plan: Snyder Floor Amendment
 Type:

Administrator:
 User:
POPULATION

District 2 (continued)

Kanawha WV County	193,063
Lewis WV County	16,372
Mineral WV County	28,212
Morgan WV County	17,541
Pendleton WV County	7,695
Putnam WV County	55,486
Randolph WV County	29,405
Tucker WV County	7,141
Upshur WV County	24,254

District 2 Subtotal	618,298
----------------------------	----------------

District 3

Boone WV County	24,629
Cabell WV County	96,319
Fayette WV County	46,039
Greenbrier WV County	35,480
Lincoln WV County	21,720
Logan WV County	36,743
Mason WV County	27,324
McDowell WV County	22,113
Mercer WV County	62,264
Mingo WV County	26,839
Monroe WV County	13,502
Nicholas WV County	26,233
Pocahontas WV County	8,719
Raleigh WV County	78,859
Summers WV County	13,927
Wayne WV County	42,481
Webster WV County	9,154
Wyoming WV County	23,796

District 3 Subtotal	616,141
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State totals	1,852,994
---------------------	------------------

EXHIBIT X

Plan: Congressional Plan 1 McCabe and Cooper
Plan Type: Congressional 2010 Census
Administrator: Jo Vaughan
User: Jo Vaughan

ATTACHMENT A
to Intervening Plaintiff Thornton
Cooper's Complaint in
Civil Action No. 3:11-CV-96

Population Summary Report

Friday May 6, 2011

3:30 PM

DISTRICT	POPULATION	DEVIATION	% DEVL
1	617,341	-324	-0.05
2	617,869	204	0.03
3	617,784	119	0.02

Total Population: 1,852,994
Ideal District Population: 617,665
Summary Statistics
Population Range: 617,341 to 617,869
Ratio Range: 1.00
Absolute Range: -324 to 204
Absolute Overall Range: 528.00
Relative Range: -0.05% to 0.03%
Relative Overall Range: 0.09%
Absolute Mean Deviation: 215.67
Relative Mean Deviation: 0.03%
Standard Deviation: 283.51

Administrator:
User:Jo Vaughan
Jo Vaughan**Population Summary Report**

Friday May 6, 2011

3:30 PM

DISTRICT	POPULATION	DEVIATION	% DEV.
1	617,341	-324	-0.05
2	617,669	204	0.03
3	617,784	119	0.02

Total Population:

1,852,994

Ideal District Population:

617,665

Summary Statistics

Population Range:

617,341 to 617,869

Ratio Range:

1.00

Absolute Range:

-324 to 204

Absolute Overall Range:

328.00

Relative Range:

-0.05% to 0.03%

Relative Overall Range:

0.09%

Absolute Mean Deviation:

213.67

Relative Mean Deviation:

0.03%

Standard Deviation:

263.51

Congressional 2010 Census Plan: Congressional Plan 1 McCabe and
 Administrator: Jo Vaughan

5/5/2011

3:36:19PM

Plan Components Report

5/5/2011

3:36:19PM

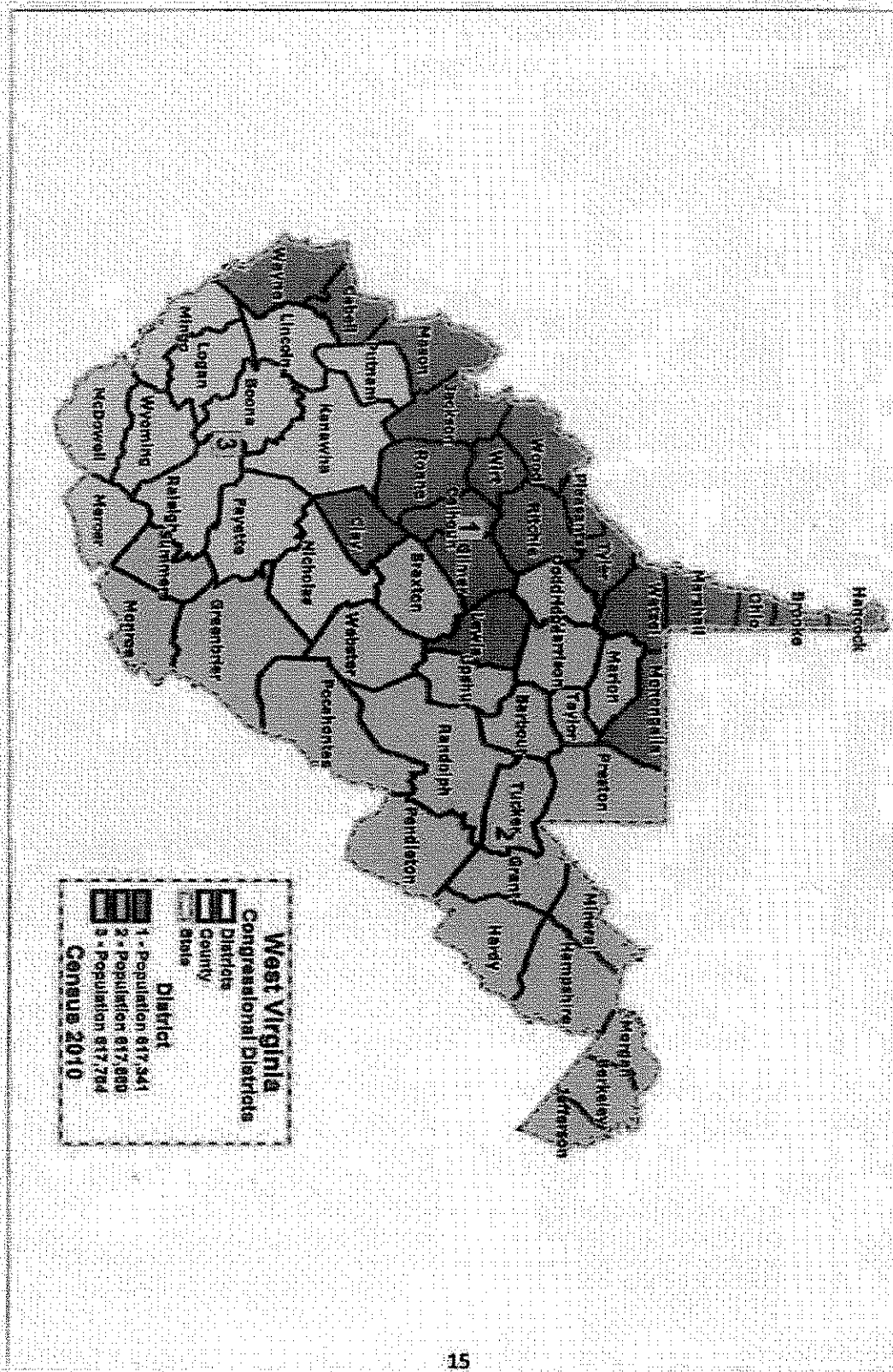
	Population
District 1	
Brooke WV County	24,069
Cabell WV County	96,319
Calhoun WV County	7,627
Clay WV County	9,386
Gitman WV County	8,693
Hancock WV County	30,676
Jackson WV County	29,211
Lewis WV County	16,372
Marshall WV County	33,187
Mason WV County	27,324
Mingo WV County	96,129
Ohio WV County	44,443
Pleasants WV County	7,605
Richie WV County	10,449
Roane WV County	14,926
Tyler WV County	9,208
Wayne WV County	42,481
Wetzel WV County	16,583
Wirt WV County	5,717
Wood WV County	36,956
District 1 Subtotal	617,341
District 2	
Barbour WV County	16,589
Berkeley WV County	109,169
Bristow WV County	14,523
Doddridge WV County	8,202
Grant WV County	11,937
Greenbrier WV County	35,480
Hampshire WV County	23,964
Hardy WV County	14,825

Page 1

Congressional 2010 Census Plan: Congressional Plan 1 McCabe and
 Cooperators: Jo Vaughan

5/5/2011
 1:35:19PM

	Population
District 2 (continued)	
Harrison WV County	69,099
Jefferson WV County	53,498
Marion WV County	56,418
Mineral WV County	28,212
Monroe WV County	13,502
Morgan WV County	17,541
Pendleton WV County	7,695
Pocahontas WV County	8,719
Preston WV County	33,520
Randolph WV County	29,405
Summers WV County	13,927
Taylor WV County	16,895
Tucker WV County	7,121
Upshur WV County	24,254
Webster WV County	9,154
District 2 Subtotal	617,869
District 3	
Boone WV County	24,629
Fayette WV County	46,039
Kanawha WV County	193,063
Lincoln WV County	21,729
Logan WV County	36,743
McDowell WV County	22,113
Morcar WV County	62,264
Mingo WV County	26,839
Nicholas WV County	26,233
Peterson WV County	55,486
Raleigh WV County	78,859
Wyoming WV County	23,796
District 3 Subtotal	617,784
State Total	1,852,994



Plan Name: Congressional Plan 1 McCabe and Cooper
Plan Type: Congressional 2010 Census
Date: 12/13/2011
Time: 11:56:08AM
Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	6.12
Max	38.37
Mean	21.76
Std. Dev.	16.15

DISTRICT	Length-Width
1	38.37
2	20.80
3	6.12

Plan Name: Congressional Plan 1 McCabe and Cooper
Plan Type: Congressional 2010 Census
Date: 12/13/2011
Time: 11:48:39AM
Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	2,517.81
Min	N/A
Max	N/A
Mean	N/A
Std. Dev.	N/A

DISTRICT	Perimeter
1	912.27
2	1,066.34
3	539.21

Plan Name: Congressional Plan 1 McCabe and Cooper
Plan Type: Congressional 2010 Census
Date: 12/13/2011
Time: 11:55:15AM
Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	0.10
Max	0.28
Mean	0.17
Std. Dev.	0.10

DISTRICT	Polsby-Popper
1	0.10
2	0.13
3	0.28

Plan Name: Congressional Plan 1 McCabe and Cooper
Plan Type: Congressional 2010 Census
Date: 12/13/2011
Time: 12:10:08PM
Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	0.44
Max	0.84
Mean	0.63
Std. Dev.	0.20

DISTRICT	Population Circle
1	0.44
2	0.63
3	0.84

Plan Name: Congressional Plan 1 McCabe and Cooper
Plan Type: Congressional 2010 Census
Date: 12/13/2011
Time: 12:01:23PM
Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	0.57
Max	0.92
Mean	0.76
Std. Dev.	0.18

DISTRICT	Population Polygon
1	0.57
2	0.79
3	0.92

Plan Name: Congressional Plan 1 McCabe and Cooper
 Plan Type: Congressional 2010 Census
 Date: 12/13/2011
 Time: 11:34:54AM
 Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	0.17
Max	0.65
Mean	0.37
Std. Dev.	0.25

DISTRICT	Reock
----------	-------

1	0.17
2	0.29
3	0.65

Plan Name: Congressional Plan 1 McCabe and Cooper
Plan Type: Congressional 2010 Census
Date: 12/13/2011
Time: 11:41:52AM
Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	1.70
Max	2.99
Mean	2.39
Std. Dev.	0.65

DISTRICT	Schwartzberg
----------	--------------

1	2.99
2	2.48
3	1.70

EXHIBIT Y

ATTACHMENT B
to Intervening Plaintiff Thornton
Cooper's Complaint in
Civil Action No. 3:11-CV-96

Plan: Congressional Plan 2 McCabe and Cooper
Plan Type: Congressional 2010 Census
Administrator: Jo Vaughan
User:

Population Summary Report

Friday May 13, 2011

12:59 PM

DISTRICT	POPULATION	DEVIATION	% DEVI
1	617,770	113	0.02
2	617,432	-233	-0.04
3	617,784	119	0.02

Total Population: 1,852,994
Ideal District Population: 617,665
Summary Statistics
Population Range: 617,432 to 617,784
Ratio Range: 1.00
Absolute Range: -233 to 119
Absolute Overall Range: 352.00
Relative Range: -0.04% to 0.02%
Relative Overall Range: 0.06%
Absolute Mean Deviation: 155.00
Relative Mean Deviation: 0.03%
Standard Deviation: 201.52

Administrator: Jo Vaughan
User:

Population Summary Report

Friday May 13, 2011

12:59 PM

DISTRICT	POPULATION	DEVIATION	% DEVI.
1	617,776	-113	0.02
2	617,482	-233	-0.04
3	617,784	-119	0.02

Total Population: 1,852,994
Ideal District Population: 617,665

Summary Statistics
Population Range: 617,432 to 617,784
Ratio Range: 1.00
Absolute Range: -233 to 119
Absolute Overall Range: 352.00
Relative Range: -0.04% to 0.02%
Relative Overall Range: 0.06%
Absolute Mean Deviation: 133.00
Relative Mean Deviation: 0.03%
Standard Deviation: 201.52

Plan: Congressional Plan 2 McCabe and Cooper
Plan Type: Congressional 2010 Census
Administrator: Jo Vaughan
User: Jo Vaughan

Plan Components Report

Friday, May 13, 2011

1:45 PM

	POPULATION
District 1	
Barbour WV County	16,589
Berkeley WV County	104,169
Brocke WV County	24,069
Doddridge WV County	8,202
Grant WV County	11,937
Hampshire WV County	23,964
Hancock WV County	30,676
Hardy WV County	14,025
Jefferson WV County	53,498
Marshall WV County	33,107
Mineral WV County	28,212
Monongalia WV County	96,189
Morgan WV County	17,541
Ohio WV County	44,443
Pendleton WV County	7,695
Pleasants WV County	7,605
Preston WV County	33,520
Randolph WV County	29,405
Tucker WV County	7,141
Tyler WV County	9,288
Wetzel WV County	16,583
District 1 Subtotal	617,778
District 2	
Benton WV County	14,523
Cabell WV County	96,319
Calloway WV County	1,627
Clay WV County	9,386
Gilmer WV County	8,693
Greenbrier WV County	35,480
Harrison WV County	69,099

Page 1

Plan: Congressional Plan 2 McClellan and Cooper Administrator: Jo Vaughan
 Type: Congressional 2010 Census User: Jo Vaughan

POPULATION

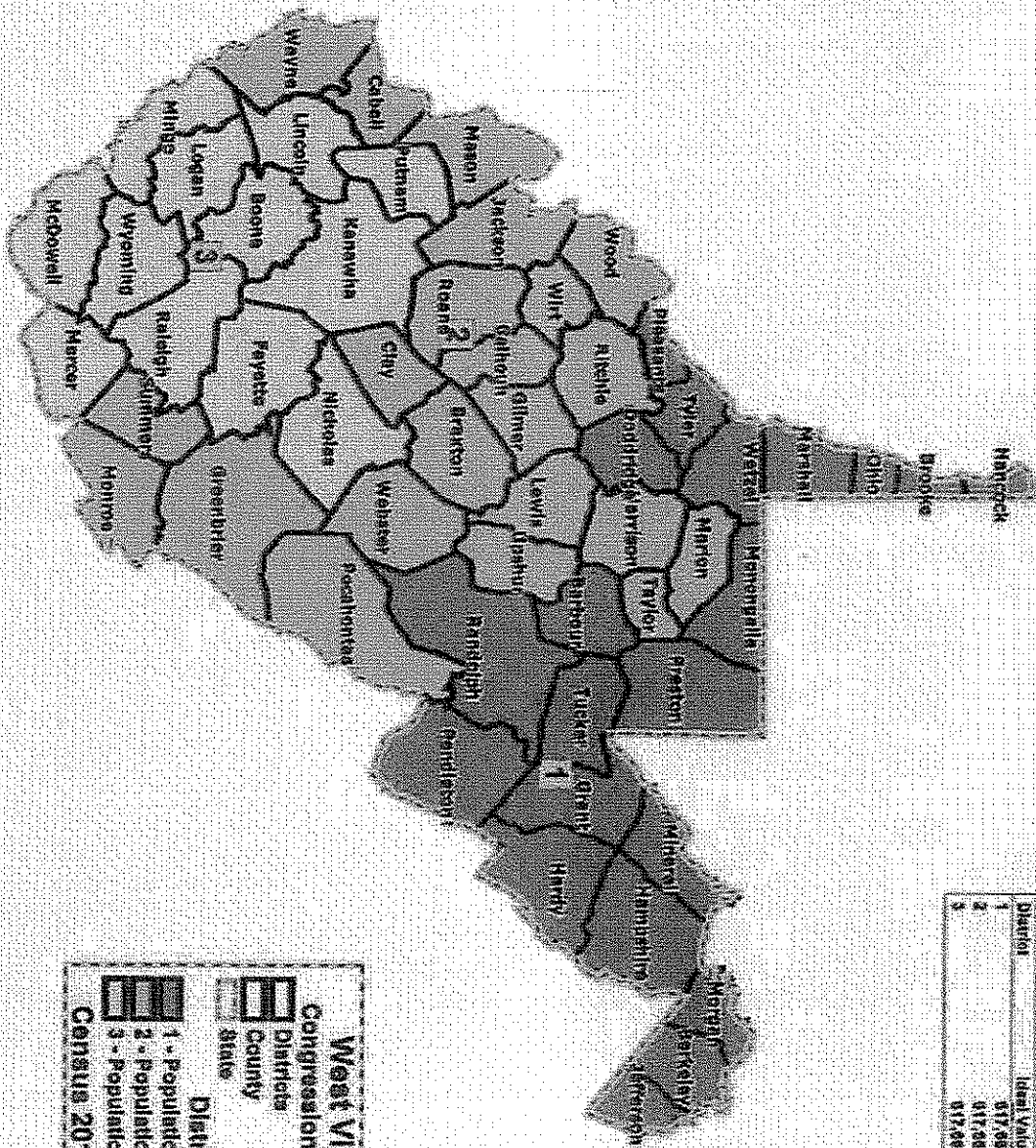
District 2 (continued)

Jackson WV County	29,211
Lewis WV County	16,372
Marion WV County	56,418
Mason WV County	27,324
Monroe WV County	13,502
Pocahontas WV County	8,719
Ritchie WV County	10,449
Roane WV County	14,926
Summers WV County	13,927
Taylor WV County	16,895
Upshur WV County	24,254
Wayne WV County	42,481
Webster WV County	9,154
Wetzel WV County	5,717
Wood WV County	86,956
District 2 Subtotal	617,432

District 3

B Boone WV County	24,629
Fayette WV County	46,839
Kanawha WV County	193,063
Lincoln WV County	21,720
Logan WV County	36,743
McDowell WV County	22,113
Mercer WV County	62,264
Mingo WV County	26,839
Nicholas WV County	26,233
Putnam WV County	55,486
Raleigh WV County	78,859
Wyoming WV County	23,796
District 3 Subtotal	617,784

State totals	1,852,994
---------------------	------------------



West Virginia	
Congressional Districts	
District	Population
1 - Population	817,779
2 - Population	817,452
3 - Population	817,784
Census 2010 Plan 2	

District	Ideal Value	Population	Deviation	% Deviation
1	817,558	817,779	221	0.02%
2	817,452	817,452	0	0.00%
3	817,666	817,784	118	0.02%

Plan Name: Congressional Plan 2 McCabe and Cooper
Plan Type: Congressional 2010 Census
Date: 12/13/2011
Time: 12:41:54PM
Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	6.12
Max	39.89
Mean	17.82
Std. Dev.	19.12

DISTRICT	Length-Width
1	39.89
2	7.46
3	6.12

Plan Name: Congressional Plan 2 McCabe and Cooper
Plan Type: Congressional 2010 Census
Date: 12/13/2011
Time: 12:40:21PM
Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	2,693.81
Min	N/A
Max	N/A
Mean	N/A
Std. Dev.	N/A

DISTRICT	Perimeter
1	1,063.02
2	1,091.59
3	539.21

Plan Name: Congressional Plan 2 McCabe and Cooper
Plan Type: Congressional 2010 Census
Date: 12/13/2011
Time: 12:41:03PM
Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	0.09
Max	0.28
Mean	0.16
Std. Dev.	0.11

DISTRICT	Polsby- Popper
1	0.09
2	0.10
3	0.28

Plan Name: Congressional Plan 2 McCabe and Cooper
Plan Type: Congressional 2010 Census
Date: 12/13/2011
Time: 12:55:22PM
Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	0.48
Max	0.84
Mean	0.68
Std. Dev.	0.18

DISTRICT	Population Circle
1	0.72
2	0.48
3	0.84

Plan Name: Congressional Plan 2 McCabe and Cooper
Plan Type: Congressional 2010 Census
Date: 12/13/2011
Time: 12:47:43PM
Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	0.52
Max	0.92
Mean	0.73
Std. Dev.	0.20

DISTRICT	Population Polygon
1	0.75
2	0.52
3	0.92

Plan Name: Congressional Plan 2 McCabe and Cooper
 Plan Type: Congressional 2010 Census
 Date: 12/13/2011
 Time: 12:31:56PM
 Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	0.27
Max	0.65
Mean	0.44
Std. Dev.	0.20

DISTRICT	Reock
----------	-------

1	0.27
2	0.40
3	0.65

Plan Name: Congressional Plan 2 McCabe and Cooper
 Plan Type: Congressional 2010 Census
 Date: 12/13/2011
 Time: 12:35:37PM
 Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	1.70
Max	2.97
Mean	2.49
Std. Dev.	0.69

DISTRICT	Schwartzberg
----------	--------------

1	2.97
2	2.80
3	1.70

EXHIBIT Z

ATTACHMENT C
to Intervening Plaintiff Thornton
Cooper's Complaint in
Civil Action No. 3:11-CV-96

Plan: Congressional Plan 3 McCabe and Cooper
Plan Type: Congressional 2010 Census
Administrator: Jo Varghini
User:

Population Summary Report

Thursday May 19, 2011

4:52 PM

DISTRICT	POPULATION	DEVIATION	% DEVI.
1	617,778	113	0.02
2	617,667	2	0.00
3	617,549	-116	-0.02

Total Population: 1,852,994
Ideal District Population: 617,665
Summary Statistics
Population Range: 617,549 to 617,778
Ratio Range: 1.00
Absolute Range: -116 to 113
Absolute Overall Range: 229.00
Relative Range: -0.02% to 0.02%
Relative Overall Range: 0.04%
Absolute Mean Deviation: 77.00
Relative Mean Deviation: 0.01%
Standard Deviation: 114.52

Administrator: Jo Vaughan
User:

Population Summary Report

Thursday May 19, 2011

4:52 PM

DISTRICT	POPULATION	DEVIATION	% DEVI.
1	617,778	-118	0.02
2	617,667	2	0.00
3	617,549	-118	-0.02

Total Population: 1,852,994
Ideal District Population: 617,665
Summary Statistics
Population Range: 617,549 to 617,778
Ratio Range: 1.00
Absolute Range: -118 to 118
Absolute Overall Range: 229.00
Relative Range: -0.02% to 0.02%
Relative Overall Range: 0.04%
Absolute Mean Deviation: 77.00
Relative Mean Deviation: 0.01%
Standard Deviation: 114.52

Plan: Congressional Plan 3 McCabe and Cooper
Plan Type: Congressional 2010 Census
Administrator: Jo Vaughan
User:

Plan Components Report

Thursday, May 19, 2011

4:54 PM

	POPULATION
District 1	
Barbour WV County	16,589
Berkeley WV County	104,169
Branke WV County	24,069
Doubridge WV County	8,202
Grant WV County	11,937
Hampshire WV County	23,964
Hancock WV County	30,676
Hardy WV County	14,825
Jefferson WV County	53,498
Marshall WV County	33,107
Mineral WV County	28,212
Monongalia WV County	96,189
Morgan WV County	17,541
Ohio WV County	44,443
Pendleton WV County	7,695
Pleasants WV County	7,605
Preston WV County	33,520
Randolph WV County	29,405
Tucker WV County	7,141
Tyler WV County	9,208
Wetzel WV County	16,583
District 1 Subtotal	607,778
District 2	
Bonae WV County	24,629
Calwell WV County	96,319
Clay WV County	9,386
Jackson WV County	29,211
Kanawha WV County	193,063
Lincoln WV County	21,720
Mason WV County	27,324

Page 1

Plan: Congressional Plan 3, McClellan and Cooper Administrator: Jo Vangelos
Type: Congressional 2010 Census User:

POPULATION

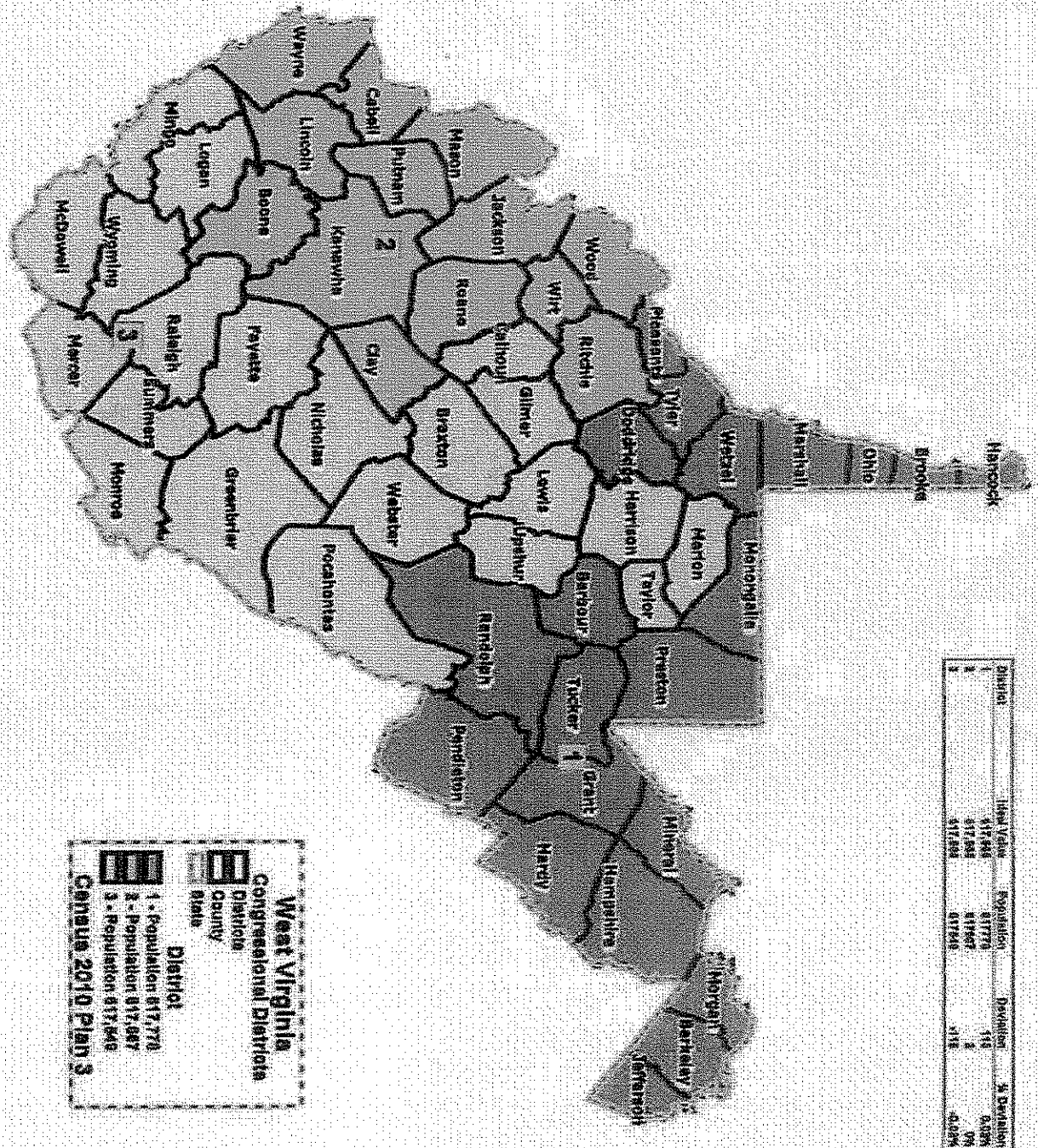
District 2 (continued)

Fairman WV County	55,486
Kanawha WV County	10,440
Roane WV County	14,926
Wayne WV County	42,481
Wirt WV County	5,717
Wood WV County	86,956
District 2 Subtotal	617,667

District 3

Branson WV County	14,523
Calhoun WV County	7,627
Fayette WV County	46,039
Gilmer WV County	8,693
Greenbrier WV County	35,480
Harrison WV County	69,109
Lewis WV County	16,372
Loyal WV County	36,743
Martin WV County	56,418
McDowell WV County	22,113
Mingo WV County	62,264
Mingo WV County	26,839
Monroe WV County	13,502
Nicholas WV County	26,233
Pocahontas WV County	8,719
Raleigh WV County	78,859
Summers WV County	13,927
Taylor WV County	16,895
Upshur WV County	24,254
Webster WV County	9,154
Wyoming WV County	23,796
District 3 Subtotal	617,589

State totals	1,235,256
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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG**

**JEFFERSON COUNTY COMMISSION;
PATRICIA NOLAND, as an individual
and behalf of all others similarly situated;
and DALE MANUEL, as an individual and
behalf of all others similarly situated,**

Plaintiffs, and

THORNTON COOPER,

Intervening Plaintiff,

v.

**Civil Action No. 3:11-CV-96
(KING, BAILEY, BERGER)**

**NATALIE E. TENNANT, in her capacity as
the Secretary of State; EARL RAY TOMBLIN,
in his capacity as the Chief Executive Officer
of the State of West Virginia; JEFFREY
KESSLER, in his capacity as the Acting
President of the Senate of the West Virginia
Legislature; and RICHARD THOMPSON, in
his capacity as the Speaker of the House of
Delegates of the West Virginia Legislature,**

Defendants.

CERTIFICATE OF SERVICE.

I, Thornton Cooper, do hereby certify that on December 3, 2011, I electronically
filed the foregoing **COMPLAINT BY INTERVENING PLAINTIFF THORNTON**

COOPER with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

David M. Hammer, Esq.
Hammer, Ferretti & Schiavoni
408 West King Street
Martinsburg, WV 25401
Phone: (304) 264-8505
Fax: (304) 264-8506
dhammmer@hfslawyers.com
Counsel for Plaintiffs;

Stephen G. Skinner, Esq.
Skinner Law Firm
P. O. Box 487
Charles Town, WV 25414
Phone: (304) 725-7029
Fax: (304) 725-4082
sskinner@skinnerfirm.com
Counsel for Plaintiffs;

George E. Carenbauer, Esq.
Steptoe & Johnson
P. O Box 1588
Charleston, WV 25326
Phone: (304) 353-8000
Fax: (304) 353-8180
George.Carenbauer@steptoe-johnson.com
Counsel for Jeffrey Kessler; and

Anthony J. Majestro, Esq.
Cynthia A. Majestro, Esq.
Powell & Majestro, PLLC
405 Capitol Street, Suite P-1200
Charleston, WV 25301
Phone: (304) 346-2889
Fax: (304) 346-2895
amajestro@powellmajestro.com
cmajestro@powellmajestro.com
Counsel for Richard Thompson;

and do hereby further certify that on December 3, 2011, I have mailed, by United States Postal Service, this document to the following non-CM/ECF participants:

The Honorable Natalie E. Tennant
West Virginia Secretary of State
Building 1, Suite 157-K
1900 Kanawha Boulevard, East
Charleston, WV 25305-0770;

The Honorable Earl Ray Tomblin
Governor of the State of West Virginia
State Capitol Building
1900 Kanawha Boulevard, East
Charleston, WV 25305; and

The Honorable Darrell McGraw
West Virginia Attorney General
State Capitol Complex
Building 1, Room E-26
1900 Kanawha Boulevard, East
Charleston, WV 25305.

/s/ Thornton Cooper
Thornton Cooper (WVSB No. 823)
3015 Ridgeview Drive
South Charleston, WV 25303
(304) 744-9616 (home)
thornbush@att.net

Plan Name: Congressional Plan 3 McCabe and Cooper
Plan Type: Congressional 2010 Census
Date: 12/13/2011
Time: 1:23:15PM
Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	14.23
Max	39.89
Mean	23.46
Std. Dev.	14.26

DISTRICT	Length-Width
1	39.89
2	14.23
3	16.27

Plan Name: Congressional Plan 3 McCabe and Cooper
Plan Type: Congressional 2010 Census
Date: 12/13/2011
Time: 1:20:36PM
Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	2,525.55
Min	N/A
Max	N/A
Mean	N/A
Std. Dev.	N/A

DISTRICT	Perimeter
1	1,063.02
2	562.04
3	900.49

Plan Name: Congressional Plan 3 McCabe and Cooper
Plan Type: Congressional 2010 Census
Date: 12/13/2011
Time: 1:22:22PM
Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	0.09
Max	0.23
Mean	0.16
Std. Dev.	0.07

DISTRICT	Polsby- Popper
1	0.09
2	0.23
3	0.16

Plan Name: Congressional Plan 3 McCabe and Cooper
Plan Type: Congressional 2010 Census
Date: 12/13/2011
Time: 1:40:55PM
Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	0.46
Max	0.72
Mean	0.63
Std. Dev.	0.15

DISTRICT	Population Circle
1	0.72
2	0.72
3	0.46

Plan Name: Congressional Plan 3 McCabe and Cooper
Plan Type: Congressional 2010 Census
Date: 12/13/2011
Time: 1:28:04PM
Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	0.67
Max	0.90
Mean	0.78
Std. Dev.	0.12

DISTRICT	Population Polygon
1	0.75
2	0.90
3	0.67

Plan Name: Congressional Plan 3 McCabe and Cooper
Plan Type: Congressional 2010 Census
Date: 12/13/2011
Time: 1:00:36PM
Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	0.27
Max	0.42
Mean	0.36
Std. Dev.	0.08

DISTRICT	Reock
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1	0.27
2	0.42
3	0.38

Plan Name: Congressional Plan 3 McCabe and Cooper
 Plan Type: Congressional 2010 Census
 Date: 12/13/2011
 Time: 1:17:11PM
 Administrator: Jo Vaughan

Measures of Compactness

12/13/2011

Sum	N/A
Min	1.80
Max	2.97
Mean	2.30
Std. Dev.	0.60

DISTRICT	Schwartzberg
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1	2.97
2	1.80
3	2.13

EXHIBIT AA



The Senate of West Virginia

DARRELL E. HOLMES
CLERK
CHARLESTON 25305-0800
TELEPHONE 357-7800

I, DARRELL E. HOLMES, CLERK OF THE SENATE OF WEST VIRGINIA, do hereby certify that the documents listed below are true and actual copies of records of the Senate of West Virginia for the First Extraordinary Session of the Legislature, 2011, relating to Enrolled Senate Bill No. 1008 (*Reapportioning congressional districts*).

Select Committee on Redistricting Minutes - August 3, 2011
Select Committee on Redistricting Handouts - August 3, 2011

Select Committee on Redistricting Minutes - August 4, 2011
Select Committee on Redistricting Handouts - August 4, 2011
Select Committee on Redistricting Meeting Transcript - August 4, 2011

Select Committee on Redistricting, Kenneth C. Martis Handout - August 4, 2011

Remarks by Members

Remarks of Senator Herb Snyder - August 4, 2011

Remarks by Members

Question on Adoption of Senator Snyder's amendment to Senate Bill No. 1008

Remarks of Senator Herb Snyder - August 5, 2011
Remarks of Senator John R. Unger II - August 5, 2011
Remarks of Senator Mike Hall - August 5, 2011
Remarks of Senator Brooks F. McCabe, Jr. - August 5, 2011
Remarks of Senator Karen L. Facemyer - August 5, 2011

Question on Passage of Engrossed Senate Bill No. 1008
Remarks of Senator John R. Unger II - August 5, 2011

Vote Explanation of Senator John R. Unger - August 5, 2011

Senate Journal, First Extraordinary Session - August 1-5, 2011

Senate Membership by District - 2010-2011

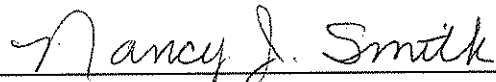


DARRELL E. HOLMES
CLERK OF THE SENATE

Date: 12-19-11

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA

Taken, subscribed and sworn to before me this 19th day of December, 2011.



Notary Public

My commission expires February 5, 2018.

