

S T A T E   O F   N E W   Y O R K

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I N   A S S E M B L Y

May 5, 2010

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Introduced by M. of A. BRODSKY, GORDON -- read once and referred to the  
Committee on Governmental Operations

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing amendments to sections 5 and 6 of article 4 of the constitution, relating to the filling of vacancies in the office of lieutenant-governor and the powers and duties of such office

1     Section 1. Resolved (if the Senate concur), That the third undesig-  
2 nated paragraph of section 5 of article 4 of the constitution be amended  
3 to read as follows:  
4     In case the governor is impeached[, is absent from the state or is  
5 otherwise unable to discharge the powers and duties of the office of  
6 governor], the lieutenant-governor shall act as governor until [the  
7 inability shall cease or until] the term of the governor shall expire.  
8 WHENEVER THE GOVERNOR TRANSMITS TO THE TEMPORARY PRESIDENT OF THE SENATE  
9 AND SPEAKER OF THE ASSEMBLY HIS OR HER WRITTEN DECLARATION THAT HE OR  
10 SHE IS UNABLE TO DISCHARGE THE POWERS AND DUTIES OF HIS OR HER OFFICE,  
11 AND UNTIL HE OR SHE TRANSMITS TO THEM A WRITTEN DECLARATION TO THE  
12 CONTRARY, SUCH POWERS AND DUTIES SHALL BE DISCHARGED BY THE LIEUTENANT-  
13 GOVERNOR AS ACTING GOVERNOR. WHENEVER THE LIEUTENANT-GOVERNOR AND A  
14 MAJORITY OF EITHER THE PRINCIPAL OFFICERS OF THE EXECUTIVE DEPARTMENT OR  
15 OF SUCH OTHER BODY AS THE LEGISLATURE MAY BY LAW PROVIDE TRANSMIT TO THE  
16 TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY THEIR  
17 WRITTEN DECLARATION THAT THE GOVERNOR IS UNABLE TO DISCHARGE THE POWERS  
18 AND DUTIES OF HIS OR HER OFFICE, THE LIEUTENANT-GOVERNOR SHALL IMME-  
19 DIATELY ASSUME THE POWERS AND DUTIES OF THE OFFICE AS ACTING GOVERNOR.  
20 THEREAFTER, WHEN THE GOVERNOR TRANSMITS TO THE TEMPORARY PRESIDENT OF  
21 THE SENATE AND THE SPEAKER OF THE ASSEMBLY HIS OR HER WRITTEN DECLARA-  
22 TION THAT NO INABILITY EXISTS, HE OR SHE SHALL RESUME THE POWERS AND  
23 DUTIES OF HIS OR HER OFFICE UNLESS THE LIEUTENANT-GOVERNOR AND A MAJORI-  
24 TY OF EITHER THE PRINCIPAL OFFICERS OF THE EXECUTIVE DEPARTMENT OR OF  
25 SUCH OTHER BODY AS THE LEGISLATURE MAY BY LAW PROVIDE TRANSMIT WITHIN  
26 FOUR DAYS TO THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF  
27 THE ASSEMBLY THEIR WRITTEN DECLARATION THAT THE GOVERNOR IS UNABLE TO  
28 DISCHARGE THE POWERS AND DUTIES OF HIS OR HER OFFICE. THEREUPON THE  
29 LEGISLATURE SHALL DECIDE THE ISSUE, ASSEMBLING WITHIN FORTY-EIGHT HOURS

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 FOR THAT PURPOSE IF NOT IN SESSION. IF THE LEGISLATURE, WITHIN  
2 TWENTY-ONE DAYS AFTER RECEIPT OF THE LATTER WRITTEN DECLARATION, OR, IF  
3 THE LEGISLATURE IS NOT IN SESSION, WITHIN TWENTY-ONE DAYS AFTER THE  
4 LEGISLATURE IS REQUIRED TO ASSEMBLE, DETERMINES BY TWO-THIRDS VOTE OF  
5 BOTH HOUSES THAT THE GOVERNOR IS UNABLE TO DISCHARGE THE POWERS AND  
6 DUTIES OF HIS OR HER OFFICE, THE LIEUTENANT-GOVERNOR SHALL CONTINUE TO  
7 DISCHARGE THE SAME AS ACTING GOVERNOR; OTHERWISE, THE GOVERNOR SHALL  
8 RESUME THE POWERS AND DUTIES OF HIS OR HER OFFICE.

9 S 2. Resolved (if the Senate concur), That the third, fourth and fifth  
10 undesignated paragraphs of section 6 of article 4 of the constitution be  
11 amended to read as follows:

12 In case of vacancy in the offices of both governor and lieutenant-gov-  
13 ernor or if both of them shall be impeached[, absent from the state] or  
14 otherwise unable to discharge the powers and duties of the office of  
15 governor, the temporary president of the senate shall act as governor  
16 until the inability shall cease or until a governor shall be elected.

17 In case of vacancy in the office of lieutenant-governor alone, or if  
18 the lieutenant-governor shall be [impeached, absent from the state or  
19 otherwise] unable to discharge the duties of office, the temporary pres-  
20 ident of the senate shall perform all the duties of lieutenant-governor  
21 [during] UNTIL such vacancy BE FILLED or DURING THE PENDENCY OF SUCH  
22 inability. IN CASE OF THE REMOVAL OF THE LIEUTENANT-GOVERNOR ALONE FROM  
23 OFFICE OR OF HIS OR HER DEATH, RESIGNATION, IMPEACHMENT OR ASCENSION TO  
24 GOVERNOR, THE OFFICE OF LIEUTENANT-GOVERNOR SHALL BE FILLED FOR THE  
25 REMAINDER OF THE TERM BY APPOINTMENT OF THE GOVERNOR, SUBJECT TO CONFIR-  
26 MATION OF SUCH APPOINTMENT BY MAJORITY VOTE OF EACH HOUSE OF THE LEGIS-  
27 LATURE.

28 If, when the duty of acting as governor devolves upon the temporary  
29 president of the senate, there be a vacancy in such office or the tempo-  
30 rary president of the senate shall be [absent from the state or other-  
31 wise] unable to discharge the duties of governor, the speaker of the  
32 assembly shall act as governor during such vacancy or inability.

33 S 3. Resolved (if the Senate concur), That the foregoing amendment be  
34 referred to the first regular legislative session convening after the  
35 next succeeding general election of members of the assembly, and, in  
36 conformity with section 1 of article 19 of the constitution, be  
37 published for 3 months previous to the time of such election.