S T A T E O F N E W Y O R K

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I N S E N A T E

December 3, 2010

Introduced by Sen. DILAN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to article 3 of the constitution, in relation to senate, assembly and congressional districts, and to repeal sections 2, 3, 4, 5, 5-a and 7 of such article relating thereto

Section 1. RESOLVED (if the Assembly concur), That sections 2, 3, 4, 5, 5-a and 7 of article 3 of the constitution are REPEALED and six new sections 2, 3, 4, 5, 7 and 7-a are added to read as follows:

S 2. NUMBER AND TERMS OF SENATORS AND ASSEMBLY MEMBERS. THE SENATE SHALL CONSIST OF SIXTY-ONE MEMBERS. THE ASSEMBLY SHALL CONSIST OF ONE HUNDRED AND FIFTY MEMBERS. THE MEMBERS OF THE SENATE AND ASSEMBLY SHALL BE ELECTED IN EVEN-NUMBERED YEARS FOR TERMS OF TWO YEARS.

S 3. ESTABLISHMENT AND ALTERATION OF SENATE, ASSEMBLY AND CONGRESSIONAL DISTRICTS. A. THERE SHALL BE A DISTRICTING COMMISSION TO DRAW SENATE, ASSEMBLY AND CONGRESSIONAL DISTRICTS, SO THAT ALL THE PEOPLE OF NEW YORK MAY BE FAIRLY REPRESENTED. THE DISTRICTING COMMISSION SHALL CONSIST OF NINE MEMBERS. NO PERSON SHALL BE A MEMBER OF THE DISTRICTING COMMISSION WHO IS NOT A REGISTERED VOTER IN THE STATE OF NEW YORK, AND WHO HAS NOT BEEN, AT THE TIME OF APPOINTMENT, A RESIDENT OF THE STATE OF NEW YORK FOR FIVE YEARS. NO MEMBER OF THE SENATE OR ASSEMBLY, NO MEMBER OF CONGRESS, AND NO PERSON HOLDING JUDICIAL OFFICE, SHALL BE A MEMBER OF THE DISTRICTING COMMISSION. THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, AND THE MINORITY LEADER OF THE ASSEMBLY SHALL EACH APPOINT TWO MEMBERS FOR A TERM OF TEN YEARS COMMENCING ON THE FIRST DAY OF APRIL OF THE YEAR PRECEDING THE YEAR IN WHICH THE FEDERAL DECENNIAL CENSUS IS TAKEN, EXCEPT THAT, IF THIS SUBDIVISION SHALL BECOME EFFECTIVE AFTER SUCH DATE, THE TERMS OF THE MEMBERS SHALL COMMENCE ON THE FIFTEENTH DAY OF JANUARY OF THE YEAR IN WHICH THIS SUBDIVISION SHALL BECOME EFFECTIVE. IF A SEAT ON THE COMMISSION SHALL FALL VACANT, THE OFFICER OF THE LEGISLATURE WHO APPOINTED THE ORIGINAL MEMBER SHALL APPOINT A MEMBER TO COMPLETE THE UNEXPIRED TERM; EXCEPT THAT, IF MORE THAN TWO MEMBERS APPOINTED BY THE OFFICERS OF EITHER HOUSE WOULD THEN HAVE BEEN APPOINTED BY AN OFFICER OF THE SAME PARTY, THEN THE OTHER OFFICER OF THE SAME HOUSE SHALL APPOINT A

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

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MEMBER TO FILL THE VACANCY. THE NINTH MEMBER, WHO SHALL BE THE CHAIR OF THE COMMISSION, SHALL BE APPOINTED, SUBJECT TO THE ASSENT OF THE GOVERNOR, BY A VOTE OF AT LEAST SIX OF THE OTHER EIGHT MEMBERS, INCLUDING AT LEAST ONE APPOINTED BY EACH APPOINTING AUTHORITY, TO A TERM THAT SHALL EXPIRE AT THE SAME TIME AS THE TERMS OF THE OTHER MEMBERS.

B. THE SENATE, ASSEMBLY, AND CONGRESSIONAL DISTRICTS SHALL BE ESTABLISHED BY A VOTE OF AT LEAST FIVE MEMBERS OF THE DISTRICTING COMMISSION, INCLUDING THE AFFIRMATIVE VOTE OF THE CHAIR OF THE COMMISSION. THE PLANS OF SENATE, ASSEMBLY, AND CONGRESSIONAL DISTRICTS ESTABLISHED BY THE DISTRICTING COMMISSION SHALL HAVE THE EFFECT OF LAW. THE DISTRICTING COMMISSION SHALL ESTABLISH THE SENATE, ASSEMBLY, AND CONGRESSIONAL DISTRICTS AT THE SAME TIME, AND NO LATER THAN THE LAST DAY OF MARCH OF THE SECOND YEAR FOLLOWING THE YEAR IN WHICH THE FEDERAL DECENNIAL CENSUS IS TAKEN, AND SHALL AT THAT TIME ISSUE A REPORT EXPLAINING HOW THE DISTRICTS COMPLY WITH THE REQUIREMENTS OF SECTION FIVE OF THIS ARTICLE. SUCH DISTRICTS SHALL BECOME EFFECTIVE FOR THE NEXT ENSUING GENERAL ELECTION OF SENATORS, ASSEMBLY MEMBERS, AND MEMBERS OF CONGRESS. THE SENATE, ASSEMBLY, AND CONGRESSIONAL DISTRICTS SHALL REMAIN UNALTERED UNTIL AFTER THE SUBSEQUENT FEDERAL DECENNIAL CENSUS, EXCEPT THAT, IF AN ALTERATION OF SUCH DISTRICTS SHALL BE ORDERED BY A COURT OF COMPETENT JURISDICTION, OR IF SUCH DISTRICTS SHALL BE PREVENTED FROM TAKING EFFECT PURSUANT TO THIS ARTICLE OR TO ANY PROVISION OF THE CONSTITUTION AND LAWS OF THE UNITED STATES, THE DISTRICTING COMMISSION SHALL MAKE THE ALTERATIONS NECESSARY TO PROVIDE A REMEDY. ALL VOTES OF THE COMMISSION SHALL BE TAKEN AT PUBLIC MEETINGS, AND THE COMMISSION SHALL CAUSE TRANSCRIPTS OF ALL MEETINGS AND HEARINGS, INCLUDING ALL TESTIMONY SUBMITTED IN WRITING, TO BE MADE PUBLICLY AVAILABLE. THE COMMISSION SHALL PROMOTE INFORMED PUBLIC UNDERSTANDING OF, AND PARTICIPATION IN, THE PROCESS OF REDISTRICTING, BY SUCH MEANS AS PROVIDING INFORMATION TO THE PUBLIC, HOLDING HEARINGS, AND ENCOURAGING SUBMISSION OF PROPOSALS.

C. THE LEGISLATURE SHALL MAKE NECESSARY APPROPRIATIONS FOR THE EXPENSES OF THE DISTRICTING COMMISSION, PROVIDE FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES FOR THE MEMBERS AND STAFF OF THE COMMISSION, ASSIGN TO THE COMMISSION ANY ADDITIONAL DUTIES THAT THE LEGISLATURE MAY DEEM NECESSARY TO THE PERFORMANCE OF THE DUTIES STIPULATED IN THIS ARTICLE, AND REQUIRE OTHER AGENCIES AND OFFICIALS OF THE STATE OF NEW YORK AND ITS POLITICAL SUBDIVISIONS TO PROVIDE SUCH INFORMATION AND ASSISTANCE AS THE COMMISSION MAY REQUIRE TO PERFORM ITS DUTIES.

D. SUBJECT TO SUCH REASONABLE REGULATIONS AS THE LEGISLATURE SHALL ENACT, THE DISTRICTING COMMISSION SHALL, AS MAY BE NECESSARY TO PERFORM ITS DUTIES, HIRE STAFF, ENTER INTO CONTRACTS, CONDUCT RESEARCH, HOLD HEARINGS, AND COMMUNICATE WITH THE PUBLIC; SHALL ASSEMBLE AND MAINTAIN SUCH GEOGRAPHIC, DEMOGRAPHIC, ELECTION, AND VOTER REGISTRATION DATA AS MAY BE NECESSARY FOR THE ANALYSIS AND EVALUATION OF PROPOSED AND ESTABLISHED PLANS OF SENATE, ASSEMBLY, AND CONGRESSIONAL DISTRICTS, INCLUDING, BUT NOT LIMITED TO, THE COMPLIANCE OF SUCH PLANS WITH THE PROVISIONS OF THIS ARTICLE AND WITH THE CONSTITUTION AND LAWS OF THE UNITED STATES; AND SHALL CAUSE ALL SUCH DATA, AND ALL EXPERT REPORTS, RESULTS OF ANY OTHER RESEARCH CONDUCTED UNDER A CONTRACT ENTERED INTO BY THE COMMISSION, AND PROPOSALS FOR DISTRICTS SUBMITTED BY THE PUBLIC, TO BE MADE PUBLICLY AVAILABLE.

S 4. JUDICIAL REVIEW OF DISTRICTS. THE SENATE, ASSEMBLY, AND CONGRESSIONAL DISTRICTS SHALL BE SUBJECT TO REVIEW BY THE SUPREME COURT, AT THE SUIT OF ANY CITIZEN, UNDER SUCH REASONABLE REGULATIONS AS THE LEGISLATURE MAY PRESCRIBE. ANY COURT BEFORE WHICH A CAUSE MAY BE PENDING INVOLVING THE ESTABLISHMENT AND ALTERATION OF SUCH DISTRICTS, SHALL GIVE

PRECEDENCE THERETO OVER ALL OTHER CAUSES AND PROCEEDINGS, AND IF SAID COURT BE NOT IN SESSION IT SHALL CONVENE PROMPTLY FOR THE DISPOSITION OF THE SAME. SUCH COURT SHALL HAVE AUTHORITY TO APPOINT REFEREES, TO ENGAGE THE ASSISTANCE OF EXPERTS, AND TO COMPEL THE ASSISTANCE OF THE DISTRICTING COMMISSION AND ITS STAFF, AS IT MAY DEEM NECESSARY TO THE DISPOSITION OF A SUIT BROUGHT UNDER THIS SECTION. IF THE DISTRICTING COMMISSION SHALL FAIL TO ESTABLISH SENATE, ASSEMBLY, OR CONGRESSIONAL DISTRICTS BY THE DATE SPECIFIED IN SUBDIVISION B OF SECTION THREE OF THIS ARTICLE, OR IF A COURT REVIEWING DISTRICTS PURSUANT TO THIS SECTION FINDS THE ESTABLISHMENT OR ALTERATION OF ANY SUCH DISTRICTS TO BE CLEARLY ERRONEOUS UNDER ANY PROVISION OF THIS ARTICLE, OR OF THE CONSTITUTION AND LAWS OF THE UNTIED STATES, THE COURT SHALL ORDER THE COMMISSION TO ESTABLISH SUCH DISTRICTS OR MAKE SUCH ALTERATIONS AS NECESSARY TO PROVIDE A REMEDY, WITHIN SUCH TIME AS THE COURT MAY REQUIRE, OR SHALL ITSELF ESTABLISH SUCH DISTRICTS OR MAKE SUCH ALTERATIONS AS THE COURT DEEMS NECESSARY.

S 5. CRITERIA FOR DISTRICTS. A. THE DIFFERENCE IN POPULATION BETWEEN THE MOST AND LEAST POPULOUS SENATE DISTRICTS SHALL NOT EXCEED TWO PERCENT OF THE MEAN POPULATION OF ALL SENATE DISTRICTS, AND THE DIFFERENCE IN POPULATION BETWEEN THE MOST AND LEAST POPULOUS ASSEMBLY DISTRICTS SHALL NOT EXCEED TWO PERCENT OF THE MEAN POPULATION OF ALL ASSEMBLY DISTRICTS.

B. ALL CONGRESSIONAL DISTRICTS SHALL BE AS NEARLY EQUAL IN POPULATION AS IS PRACTICABLE.

C. EACH DISTRICT SHALL CONSIST OF CONTIGUOUS TERRITORY; NO DISTRICT SHALL CONSIST OF PARTS ENTIRELY SEPARATED BY THE TERRITORY OF ANOTHER DISTRICT OF THE SAME BODY, WHETHER SUCH TERRITORY BE LAND OR WATER, POPULATED OR UNPOPULATED. A POPULATED CENSUS BLOCK SHALL NOT BE DIVIDED BY A DISTRICT BOUNDARY, UNLESS IT CAN BE DETERMINED THAT THE POPULATED PART OF SUCH BLOCK IS WITHIN A SINGLE DISTRICT.

D. THE WHOLE NUMBER OF PERSONS REPORTED IN THE FEDERAL DECENNIAL CENSUS SHALL BE THE BASIS FOR DETERMINING POPULATIONS FOR THE PURPOSES OF THIS ARTICLE, EXCEPT THAT, FOR THE PURPOSE OF DETERMINING THE POPULATIONS OF SENATE AND ASSEMBLY DISTRICTS, NO PERSON SHALL BE DEEMED TO HAVE GAINED OR LOST A RESIDENCE BY REASON OF CONVICTION AND INCARCERATION IN A FEDERAL OR STATE CORRECTIONAL FACILITY.

E. SENATE, ASSEMBLY, OR CONGRESSIONAL DISTRICTS SHALL NOT BE ESTABLISHED THAT RESULT IN A DENIAL TO MEMBERS OF RACIAL AND LINGUISTIC MINORITY GROUPS OF AN EQUAL OPPORTUNITY WITH OTHER CITIZENS TO PARTICIPATE IN THE POLITICAL PROCESS AND TO ELECT THE REPRESENTATIVES OF THEIR CHOICE. THE PRINCIPLES STATED IN SUBDIVISION F OF THIS SECTION SHALL BE USED TO CREATE DISTRICTS THAT WILL AFFORD FAIR REPRESENTATION TO THE MEMBERS OF THOSE RACIAL AND LINGUISTIC MINORITY GROUPS WHO ARE SUFFICIENTLY NUMEROUS AND WHOSE RESIDENTIAL PATTERNS AFFORD THE OPPORTUNITY OF CREATING DISTRICTS IN WHICH THEY WILL BE ABLE TO ELECT REPRESENTATIVES OF THEIR CHOICE.

F. SUBJECT AND SUBSIDIARY TO THE REQUIREMENTS OF SUBDIVISIONS A, B, C, D AND E OF THIS SECTION, THE FOLLOWING PRINCIPLES SHALL BE FOLLOWED IN THE CREATION OF SENATE, ASSEMBLY, AND CONGRESSIONAL DISTRICTS. A PRINCIPLE WITH A LOWER NUMBER SHALL HAVE PRECEDENCE OVER A PRINCIPLE WITH A HIGHER NUMBER.

1. TO THE EXTENT PRACTICABLE, COUNTIES SHALL NOT BE DIVIDED IN THE FORMATION OF DISTRICTS, EXCEPT TO CREATE DISTRICTS WHOLLY WITHIN A COUNTY. WHERE SUCH DIVISION OF COUNTIES IS UNAVOIDABLE, MORE POPULOUS COUNTIES SHALL BE DIVIDED IN PREFERENCE TO THE DIVISION OF LESS POPULOUS COUNTIES.

2. TO THE EXTENT PRACTICABLE, COUNTY SUBDIVISIONS SHALL NOT BE DIVIDED IN THE FORMATION OF DISTRICTS, EXCEPT TO CREATE DISTRICTS WHOLLY WITHIN A COUNTY SUBDIVISION. FOR THE PURPOSES OF THIS ARTICLE, A COUNTY SUBDIVISION SHALL BE A CITY, EXCEPT THE CITY OF NEW YORK, A TOWN, OR AN INDIAN RESERVATION WHOSE TERRITORY IS EXCLUSIVE OF THE TERRITORY OF ANY CITY OR TOWN. COUNTY SUBDIVISIONS WITH LARGER POPULATIONS SHALL BE DIVIDED IN PREFERENCE TO DIVISION OF THOSE WITH SMALLER POPULATIONS.

3. TO THE EXTENT PRACTICABLE, INCORPORATED VILLAGES SHALL NOT BE DIVIDED IN THE FORMATION OF DISTRICTS.

4. THE SENATE, ASSEMBLY, AND CONGRESSIONAL DISTRICTS SHALL BE AS COMPACT IN FORM AS IS PRACTICABLE.

5. TO THE EXTENT PRACTICABLE, A SENATE, ASSEMBLY, OR CONGRESSIONAL DISTRICT SHALL UNITE COMMUNITIES DEFINED BY ACTUAL SHARED INTERESTS, TAKING ACCOUNT OF GEOGRAPHIC, SOCIAL, ECONOMIC, AND OTHER FACTORS THAT INDICATE COMMONALITY OF INTEREST, AND DISTRICTS SHALL BE FORMED SO AS TO PROMOTE THE ORDERLY AND EFFICIENT ADMINISTRATION OF ELECTIONS.

6. TO THE EXTENT PRACTICABLE, THE RESIDENCES OF TWO OR MORE INCUMBENT MEMBERS OF THE SAME BODY SHALL NOT BE PLACED IN THE SAME DISTRICT OF SUCH BODY, AND THE RESIDENCES OF INCUMBENT LEGISLATORS AND MEMBERS OF CONGRESS SHALL BE INCLUDED IN THE DISTRICT WITH THE LARGEST NUMBER OF THEIR EXISTING CONSTITUENTS, BUT THE REQUIREMENTS OF SUBDIVISIONS A, B, C, D AND E OF THIS SECTION, AND OF PARAGRAPHS ONE, TWO, THREE, FOUR AND FIVE OF THIS SUBDIVISION, SHALL ALWAYS TAKE PRECEDENCE OVER, AND SHALL NEVER BE SUBORDINATED TO, THE REQUIREMENTS OF THIS PARAGRAPH OR THE PRESERVATION OF THE CORES OF EXISTING DISTRICTS.

S 7. QUALIFICATIONS OF MEMBERS OF THE LEGISLATURE. NO PERSON SHALL SERVE AS A MEMBER OF THE LEGISLATURE UNLESS HE OR SHE IS A CITIZEN OF THE UNITED STATES AND HAS BEEN A RESIDENT OF THE STATE OF NEW YORK FOR FIVE YEARS AND, EXCEPT IF ELECTED A SENATOR OR MEMBER OF THE ASSEMBLY AT THE FIRST ELECTION IN WHICH A READJUSTMENT OR ALTERATION OF THE SENATE OR ASSEMBLY DISTRICTS BECOMES EFFECTIVE, OF THE SENATE OR ASSEMBLY DISTRICT FOR THE TWELVE MONTHS IMMEDIATELY PRECEDING HIS OR HER ELECTION. NO MEMBER OF THE LEGISLATURE SHALL, DURING THE TIME FOR WHICH HE OR SHE WAS ELECTED, RECEIVE ANY CIVIL APPOINTMENT FROM THE GOVERNOR, THE GOVERNOR AND THE SENATE, THE LEGISLATURE OR FROM ANY CITY GOVERNMENT, TO AN OFFICE WHICH SHALL HAVE BEEN CREATED, OR THE EMOLUMENTS WHEREOF SHALL HAVE BEEN INCREASED DURING SUCH TIME. IF A MEMBER OF THE LEGISLATURE BE ELECTED TO CONGRESS, OR APPOINTED TO ANY OFFICE, CIVIL OR MILITARY, UNDER THE GOVERNMENT OF THE UNITED STATES, THE STATE OF NEW YORK, OR UNDER ANY CITY GOVERNMENT EXCEPT AS A MEMBER OF THE NATIONAL GUARD OR NAVAL MILITIA OF THE STATE, OR OF THE RESERVE FORCES OF THE UNITED STATES, HIS OR HER ACCEPTANCE THEREOF SHALL VACATE HIS OR HER SEAT IN THE LEGISLATURE, PROVIDING, HOWEVER, THAT A MEMBER OF THE LEGISLATURE MAY BE APPOINTED COMMISSIONER OF DEEDS OR TO ANY OFFICE IN WHICH HE OR SHE SHALL RECEIVE NO COMPENSATION.

S 7-A. THE SENATE, ASSEMBLY AND CONGRESSIONAL DISTRICTS IN USE AT THE TIME THAT THIS SECTION TAKES EFFECT SHALL CONTINUE IN USE AT THE GENERAL ELECTION OF THE YEAR TWO THOUSAND TWELVE AND AT ANY SPECIAL ELECTION HELD DURING THE YEAR TWO THOUSAND TWELVE, AT WHICH A VACANCY ARISING WITHIN ANY SUCH DISTRICT IS TO BE FILLED.

S 2. RESOLVED (if the Assembly concur), That the foregoing amendment be referred to the first regular legislative session convening after the next succeeding general election of members of the assembly, and, in conformity with section 1 of article 19 of the constitution, be published for 3 months previous to the time of such election.