

SENATE No. 2146

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

Resolutions MEMORIALIZING THE UNITED STATES SENATE TO SWIFTLY AND DILIGENTLY FULFILL ITS CONSTITUTIONAL RESPONSIBILITY TO CONSIDER THE PRESIDENT OF THE UNITED STATES' NOMINEE TO THE SUPREME COURT.

1 WHEREAS, THE PEOPLE OF THE COMMONWEALTH DESERVE TO HAVE A
2 FULLY FUNCTIONING SUPREME COURT WITH 9 JUSTICES TO PRESIDE OVER THE
3 THOUSANDS OF CASES THAT COME BEFORE THE COURT EACH YEAR; AND

4 WHEREAS, THE SUPREME COURT IS ESSENTIAL TO THE UNITED STATES'
5 CONSTITUTIONAL SYSTEM OF GOVERNMENT, SERVING AS THE FINAL ARBITER
6 OF THE CONSTITUTION AND THE HIGHEST COURT IN THE NATION; AND

7 WHEREAS, THE SUPREME COURT'S POWER OF JUDICIAL REVIEW ACTS AS
8 A VITAL CHECK ON THE POWER OF THE EXECUTIVE AND LEGISLATIVE
9 BRANCHES OF GOVERNMENT; AND

10 WHEREAS, ARTICLE II, SECTION 2 OF THE UNITED STATES CONSTITUTION
11 AUTHORIZES THE PRESIDENT TO NOMINATE AND, WITH THE ADVICE AND
12 CONSENT OF THE SENATE, APPOINT JUDGES TO THE SUPREME COURT; AND

13 WHEREAS, NOTHING IN THE UNITED STATES CONSTITUTION LIMITS THE
14 PRESIDENT’S POWER TO NOMINATE AND APPOINT JUDGES TO THE SUPREME
15 COURT IN THE FINAL YEAR OF HIS OR HER TERM OR IN AN ELECTION YEAR; AND

16 WHEREAS, THERE ARE SEVERAL EXAMPLES IN HISTORY WHERE A JUDGE
17 HAS BEEN SUCCESSFULLY NOMINATED, CONFIRMED AND APPOINTED TO THE
18 SUPREME COURT IN THE YEAR PRECEDING A PRESIDENTIAL ELECTION,
19 INCLUDING JUSTICE ANTHONY KENNEDY BY PRESIDENT REAGAN, JUSTICE
20 BENJAMIN CARDOZO BY PRESIDENT HOOVER AND JUSTICE LOUIS BRANDEIS BY
21 PRESIDENT WILSON; AND

22 WHEREAS, IN THE EVENT OF A VACANCY ON THE SUPREME COURT,
23 FAILING TO TIMELY NOMINATE, CONSIDER AND CONFIRM THE NEXT JUSTICE
24 FOR PARTISAN POLITICAL REASONS WOULD UNDERMINE THE PLAIN MEANING
25 AND INTENT OF THE CONSTITUTION AND BE A PROFOUND DISSERVICE TO THE
26 AMERICAN PEOPLE; NOW THEREFORE BE IT

27 RESOLVED, THAT THE MEMBERS OF THE MASSACHUSETTS SENATE
28 RESPECTFULLY URGE THE MEMBERS OF THE UNITED STATES SENATE TO
29 SWIFTLY AND DILIGENTLY FULFILL THEIR CONSTITUTIONAL RESPONSIBILITY
30 BY GRANTING A FAIR HEARING AND A TIMELY VOTE TO THE PRESIDENT’S NEXT
31 NOMINEE TO THE SUPREME COURT; AND BE IT FURTHER

32 RESOLVED, THAT A COPY OF THESE RESOLUTIONS BE TRANSMITTED
33 FORTHWITH BY THE CLERK OF THE SENATE TO THE UNITED STATES SENATE.