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(Original Signature of Member)

114TH CONGRESS  
2D SESSION

# H. CON. RES. \_\_\_\_\_

Prohibiting the House or Senate from adjourning or convening in a pro forma session for a period of more than 2 days unless the Senate has acted upon the nomination of Judge Merrick Garland for Associate Justice of the Supreme Court.

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## IN THE HOUSE OF REPRESENTATIVES

Ms. ESTY submitted the following concurrent resolution; which was referred to the Committee on \_\_\_\_\_

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### CONCURRENT RESOLUTION

Prohibiting the House or Senate from adjourning or convening in a pro forma session for a period of more than 2 days unless the Senate has acted upon the nomination of Judge Merrick Garland for Associate Justice of the Supreme Court.

Whereas on February 13, 2016, Justice Antonin Scalia passed away, vacating a seat on the Supreme Court of the United States;

Whereas on February 23, 2016, Republican Senators on the Committee on the Judiciary of the Senate announced that they would hold public confirmation hearings for Su-

preme Court nominees only after the next President is sworn in on January 20, 2017;

Whereas on March 16, 2016, President Barack Obama nominated Court of Appeals Judge Merrick Garland to the Supreme Court;

Whereas the Committee on the Judiciary of the Senate has yet to hold a public confirmation hearing to fill the vacancy created by the death of Justice Antonin Scalia;

Whereas since 1949, when the Committee on the Judiciary of the Senate began routinely holding public confirmation hearings for Supreme Court nominees, the Committee on the Judiciary has held hearings for every nominee to the Court except for those whose nominations were withdrawn by a President, meaning that the Committee has never refused to hold hearings for a nominee because such hearings would occur during a presidential election year;

Whereas the Senate has never delayed a vote to approve or disapprove a Supreme Court nominee, other than a nominee whose nomination was withdrawn, for more than 125 days;

Whereas if the Senate waits to hold a public confirmation hearing on a Supreme Court nominee until after the next President is sworn in, the seat will remain vacant for more than 342 days;

Whereas the Senate has held public confirmation hearings or a confirmation vote for Supreme Court nominees in past presidential election years;

Whereas on March 22, 2016, the Supreme Court handed down its first deadlocked decision since the late Justice

Scalia’s seat became vacant, a 4–4 decision in *Hawkins v. Community Bank of Raymore*;

Whereas between February 13, 2016 and the swearing in of the next President, the Supreme Court is likely to grant and hear as many as 80 oral arguments; and

Whereas the refusal of the Committee on the Judiciary of the Senate to consider any nominee appointed by President Barack Obama impairs the Supreme Court’s ability to perform its constitutional duties, potentially leaving many critical legal questions unresolved by the Supreme Court over the course of two Supreme Court terms: Now, therefore, be it

1        *Resolved by the House of Representatives (the Senate*  
2 *concurring),*

3 **SECTION 1. SHORT TITLE.**

4        This resolution may be cited as the “Senate’s Court  
5 Obligations Trump Unconstitutional Stalling Resolution”  
6 or the “SCOTUS Resolution”.

7 **SEC. 2. PROHIBITING ADJOURNMENT OR PRO FORMA SES-**  
8 **SIONS UNTIL ACTION ON NOMINATION OF**  
9 **JUDGE MERRICK GARLAND TO SUPREME**  
10 **COURT.**

11        (a) IN GENERAL.—The House of Representatives or  
12 Senate may not adjourn, remain adjourned, or convene  
13 solely in a pro forma session for a period of more than  
14 2 days (excluding Saturdays, Sundays, and legal holidays,  
15 except when the House or Senate is in session on such  
16 a day) during the remainder of the One Hundred Four-

1 tenth Congress unless, at the time the period of adjourn-  
2 ment begins, the Senate has taken action on the nomina-  
3 tion of Judge Merrick Garland for Associate Justice of  
4 the Supreme Court by—

5           (1) holding a hearing on the nomination in the  
6           Committee on the Judiciary of the Senate; or

7           (2) holding a vote on the nomination in the  
8           Senate.

9           (b) EFFECTIVE DATE.—Subsection (a) shall take ef-  
10          fect July 19, 2016.