

117TH CONGRESS
1ST SESSION

S. RES. _____

To provide for related procedures concerning the article of impeachment against Donald John Trump, former President of the United States.

IN THE SENATE OF THE UNITED STATES

Mr. SCHUMER (for himself and Mr. McCONNELL) submitted the following resolution; which was referred to the Committee on _____

RESOLUTION

To provide for related procedures concerning the article of impeachment against Donald John Trump, former President of the United States.

1 *Resolved,*

2 SECTION 1. The House of Representatives shall file
3 its record with the Secretary of the Senate, which will con-
4 sist of those publicly available materials that have been
5 submitted to or produced by the House Judiciary Com-
6 mittee, including transcripts of public hearings or mark-
7 ups and any materials printed by the House of Represent-
8 atives or the House Judiciary Committee pursuant to
9 House Resolution 24 or House Resolution 40. All mate-

1 rials filed pursuant to this section shall be printed and
2 made available to all parties.

3 SEC. 2. When, pursuant to Senate Resolution 16, the
4 Senate convenes as a Court of Impeachment on Tuesday,
5 February 9, 2021, there shall immediately be 4 hours of
6 argument by the parties, equally divided, on the question
7 whether Donald John Trump is subject to the jurisdiction
8 of a court of impeachment for acts committed while Presi-
9 dent of the United States, notwithstanding the expiration
10 of his term in that office. Each side may determine the
11 number of persons to present argument on the foregoing
12 question. The Senate, without any intervening action, mo-
13 tion, or amendment, except for deliberation by the Senate,
14 if so ordered under the Rules of Procedure and Practice
15 in the Senate When Sitting on Impeachment Trials (re-
16 ferred to in this resolution as the “Rules of Impeach-
17 ment”), shall then decide the foregoing question by the
18 yeas and nays. If a majority of Senators voting, a quorum
19 being present, shall vote in the negative, the Senate shall
20 order that the article of impeachment be immediately dis-
21 missed and the Secretary shall notify the House of Rep-
22 resentatives of the order of dismissal. If a majority of Sen-
23 ators voting, a quorum being present, shall vote in the af-
24 firmative, the Senate shall proceed as provided in this res-
25 olution.

1 SEC. 3. The former President and the House of Rep-
2 representatives shall have until 9:00 a.m. on Wednesday,
3 February 10, 2021, to file any motions permitted under
4 the Rules of Impeachment with the exception of motions
5 to subpoena witnesses or documents or any other evi-
6 dentiary motions. Responses to any such motions shall be
7 filed no later than 11:00 a.m. on Wednesday, February
8 10, 2021. All materials filed pursuant to this section shall
9 be filed with the Secretary and be printed and made avail-
10 able to all parties. Arguments on such motions shall begin
11 at 12:00 p.m. on Wednesday, February 10, 2021, and
12 each side may determine the number of persons to make
13 its presentation, following which the Senate shall delib-
14 erate, if so ordered under the Rules of Impeachment, and
15 vote on any such motions.

16 SEC. 4. Following the disposition of such motions, or
17 if no motions are made, then the House of Representatives
18 shall make its presentation in support of the article of im-
19 peachment for a period of time not to exceed 16 hours,
20 over up to 2 session days. If no motions are made under
21 section 3, the House of Representatives shall begin its
22 presentation at 12:00 p.m. on Wednesday, February 10,
23 2021. Following the House of Representatives' presen-
24 tation, the former President shall make his presentation
25 for a period not to exceed 16 hours, over up to 2 session

1 days. Each side may determine the number of persons to
2 make its presentation. Each side shall have the right to
3 decide for how many hours it shall make its presentation
4 on each of the up to 2 session days allotted to it, except
5 that neither side shall make its presentation for more than
6 8 hours on any single session day. The parties' presen-
7 tations need not be limited to argument from the record
8 described in section 1.

9 SEC. 5. Upon the conclusion of the period allotted
10 for presentations by the parties as provided under section
11 4, Senators may question the parties for a period of time
12 not to exceed 4 hours over not more than 1 session day.

13 SEC. 6. Upon conclusion of the period allotted for
14 Senators' questions as provided under section 5, there
15 shall be 2 hours of argument, equally divided between the
16 parties, followed by deliberation by the Senate, if so or-
17 dered under the Rules of Impeachment, on the question
18 of whether it shall be in order to consider and debate
19 under the Rules of Impeachment any motion to subpoena
20 witnesses or documents. The Senate, without any inter-
21 vening action, motion, or amendment, shall then decide
22 by the yeas and nays whether it shall be in order to con-
23 sider and debate under the Rules of Impeachment any mo-
24 tion to subpoena witnesses or documents. Following the

1 disposition of that question, other motions provided under
2 the Rules of Impeachment shall be in order.

3 SEC. 7. (a) If the Senate agrees to allow either the
4 House of Representatives or the former President to sub-
5 poena witnesses, the witnesses shall first be deposed and
6 the parties shall be allowed other appropriate discovery.
7 The Senate shall decide after deposition and other appro-
8 priate discovery which, if any, witnesses shall testify, pur-
9 suant to the Rules of Impeachment. No testimony shall
10 be admissible in the Senate unless the parties have had
11 the opportunity to depose such witnesses and to conduct
12 other appropriate discovery.

13 (b) If the Senate agrees to allow either party to sub-
14 poena witnesses, provisions for the admission of evidence,
15 issuance of subpoenas, arrangements for depositions,
16 other appropriate discovery, testimony by witnesses in the
17 Senate, if such testimony is ordered by the Senate, and
18 any related matters are to be determined by subsequent
19 resolution of the Senate.

20 SEC. 8. (a) If the Senate decides that no party shall
21 be permitted to subpoena witnesses pursuant to section
22 6, the House of Representatives shall be recognized to
23 make a motion to admit into evidence the materials relied
24 upon by the House of Representatives during the trial.
25 The House of Representatives shall be recognized to make

1 such a motion, however, only if it has disclosed to the
2 former President all materials it will move to admit into
3 evidence at least 48 hours before making said motion. Ar-
4 guments on the motion shall be limited to 1 hour equally
5 divided. The Senate, without any intervening action, mo-
6 tion, or amendment, shall then decide by the yeas and
7 nays whether to admit into evidence such materials. If a
8 majority of Senators voting, a quorum being present, shall
9 vote in the affirmative, the materials shall be admitted
10 into evidence. If a majority of Senators voting, a quorum
11 being present, shall vote in the negative, the materials
12 shall not be admitted into evidence. The former President
13 shall then be recognized to make a motion to admit into
14 evidence the materials relied upon by the former President
15 during the trial. The former President shall be recognized
16 to make such a motion, however, only if he has disclosed
17 to the House of Representatives all materials he will move
18 to admit into evidence at least 48 hours before making
19 said motion. Arguments on the motion shall be limited to
20 1 hour equally divided. The Senate, without any inter-
21 vening action, motion, or amendment, shall then decide
22 by the yeas and nays whether to admit into evidence such
23 materials. If a majority of Senators voting, a quorum
24 being present, shall vote in the affirmative, the materials
25 shall be admitted into evidence. If a majority of Senators

1 voting, a quorum being present, shall vote in the negative,
2 the materials shall not be admitted into evidence.

3 (b) The disclosure requirements established under
4 subsection (a) shall not apply to evidence discovered by
5 the movant after the disclosure deadline, so long as the
6 movant declares in writing that the movant was unaware
7 of such evidence until after the disclosure deadline, and
8 that such evidence could not reasonably have been discov-
9 ered until after the disclosure deadline.

10 (c) The admission of any evidence pursuant to this
11 section shall not be treated as a concession by any party
12 as to the truth of the matter asserted by the parties, and
13 the Senate as the trier of fact shall decide the weight to
14 be given such evidence.

15 SEC. 9. Unless the Senate shall have already voted
16 on the article of impeachment, the Senate shall convene
17 as a Court of Impeachment at 2:00 p.m. on Sunday, Feb-
18 ruary 14, 2021, notwithstanding rule III of the Rules of
19 Impeachment.

20 SEC. 10. Immediately upon the conclusion of any ac-
21 tion by the Senate under section 8, or immediately upon
22 the next day on which the Senate reconvenes as a Court
23 of Impeachment after the conclusion of such action, the
24 Senate shall proceed to final arguments as provided in the
25 Rules of Impeachment, waiving the 2-person rule con-

1 tained in rule XXII of the Rules of Impeachment. Such
2 arguments shall not exceed 4 hours, equally divided be-
3 tween the parties.

4 SEC. 11. At the conclusion of final arguments as pro-
5 vided under section 10, the Senate, without intervening
6 action, except for deliberation if so ordered under the
7 Rules of Impeachment, shall vote on the article of im-
8 peachment.