

## 117TH CONGRESS 1ST SESSION

## S. RES. 47

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

February 9, 2021

Mr. Schumer (for himself and Mr. McConnell) submitted the following resolution; which was considered and agreed to

## 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 resentatives 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 year 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.
- 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

such a motion, however, only if it has disclosed to the 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 divided. The Senate, without any intervening action, motion, or amendment, shall then decide by the yeas and nays whether to admit into evidence such materials. If a 8 majority of Senators voting, a quorum being present, shall vote in the affirmative, the materials shall be admitted 10 into evidence. If a majority of Senators voting, a quorum being present, shall vote in the negative, the materials 12 shall not be admitted into evidence. The former President shall then be recognized to make a motion to admit into evidence the materials relied upon by the former President 14 15 during the trial. The former President shall be recognized to make such a motion, however, only if he has disclosed 16 to the House of Representatives all materials he will move to admit into evidence at least 48 hours before making 18 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 by the yeas and nays whether to admit into evidence such 23 materials. If a majority of Senators voting, a quorum being present, shall vote in the affirmative, the materials 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.
- 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.

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