

99TH CONGRESS  
2D SESSION

# S. RES. 479

[Report No. 99-401]

Amending the Rules of Procedure and Practice in the Senate When Sitting on  
Impeachment Trials.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 13 (legislative day, AUGUST 11), 1986

Mr. MATHIAS, from the Committee on Rules and Administration, reported the  
following original resolution; which was placed on the calendar

AUGUST 16 (legislative day, AUGUST 11), 1986

Considered and agreed to

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## RESOLUTION

Amending the Rules of Procedure and Practice in the Senate  
When Sitting on Impeachment Trials.

1       *Resolved*, That the Rules of Procedure and Practice in  
2 the Senate When Sitting on Impeachment Trials are amend-  
3 ed to read as follows:

4       RULES OF PROCEDURE AND PRACTICE IN THE SENATE  
5               WHEN SITTING ON IMPEACHMENT TRIALS

6       I. Whensoever the Senate shall receive notice from the  
7 House of Representatives that managers are appointed on  
8 their part to conduct an impeachment against any person and

1 are directed to carry articles of impeachment to the Senate,  
2 the Secretary of the Senate shall immediately inform the  
3 House of Representatives that the Senate is ready to receive  
4 the managers for the purpose of exhibiting such articles of  
5 impeachment, agreeably to such notice.

6       II. When the managers of an impeachment shall be in-  
7 troduced at the bar of the Senate and shall signify that they  
8 are ready to exhibit articles of impeachment against any  
9 person, the Presiding Officer of the Senate shall direct the  
10 Sergeant at Arms to make proclamation, who shall, after  
11 making proclamation, repeat the following words, viz: "All  
12 persons are commanded to keep silence, on pain of imprison-  
13 ment, while the House of Representatives is exhibiting to the  
14 Senate of the United States articles of impeachment against  
15                       "; after which the articles shall be exhibited, and  
16 then the Presiding Officer of the Senate shall inform the  
17 managers that the Senate will take proper order on the sub-  
18 ject of the impeachment, of which due notice shall be given to  
19 the House of Representatives.

20       III. Upon such articles being presented to the Senate,  
21 the Senate shall, at 1 o'clock after noon of the day (Sunday  
22 excepted) following such presentation, or sooner if ordered by  
23 the Senate, proceed to the consideration of such articles and  
24 shall continue in session from day to day (Sundays excepted)  
25 after the trial shall commence (unless otherwise ordered by

1 the Senate) until final judgment shall be rendered, and so  
2 much longer as may, in its judgment, be needful. Before pro-  
3 ceeding to the consideration of the articles of impeachment,  
4 the Presiding Officer shall administer the oath hereinafter  
5 provided to the Members of the Senate then present and to  
6 the other Members of the Senate as they shall appear, whose  
7 duty it shall be to take the same.

8 IV. When the President of the United States or the  
9 Vice President of the United States, upon whom the powers  
10 and duties of the Office of President shall have devolved,  
11 shall be impeached, the Chief Justice of the United States  
12 shall preside; and in a case requiring the said Chief Justice to  
13 preside notice shall be given to him by the Presiding Officer  
14 of the Senate of the time and place fixed for the consideration  
15 of the articles of impeachment, as aforesaid, with a request to  
16 attend; and the said Chief Justice shall be administered the  
17 oath by the Presiding Officer of the Senate and shall preside  
18 over the Senate during the consideration of said articles and  
19 upon the trial of the person impeached therein.

20 V. The Presiding Officer shall have power to make and  
21 issue, by himself or by the Secretary of the Senate, all  
22 orders, mandates, writs, and precepts authorized by these  
23 rules or by the Senate, and to make and enforce such other  
24 regulations and orders in the premises as the Senate may  
25 authorize or provide.

1 VI. The Senate shall have power to compel the attend-  
2 ance of witnesses, to enforce obedience to its orders, man-  
3 dates, writs, precepts, and judgments, to preserve order, and  
4 to punish in a summary way contempts of, and disobedience  
5 to, its authority, orders, mandates, writs, precepts, or judg-  
6 ments, and to make all lawful orders, rules, and regulations  
7 which it may deem essential or conducive to the ends of jus-  
8 tice. And the Sergeant at Arms, under the direction of the  
9 Senate, may employ such aid and assistance as may be nec-  
10 essary to enforce, execute, and carry into effect the lawful  
11 orders, mandates, writs, and precepts of the Senate.

12 VII. The Presiding Officer of the Senate shall direct all  
13 necessary preparations in the Senate Chamber, and the Pre-  
14 siding Officer on the trial shall direct all the forms of proceed-  
15 ings while the Senate is sitting for the purpose of trying an  
16 impeachment, and all forms during the trial not otherwise  
17 specially provided for. And the Presiding Officer on the trial  
18 may rule on all questions of evidence including, but not limit-  
19 ed to, questions of relevancy, materiality, and redundancy of  
20 evidence and incidental questions, which ruling shall stand as  
21 the judgment of the Senate, unless some Member of the  
22 Senate shall ask that a formal vote be taken thereon, in  
23 which case it shall be submitted to the Senate for decision  
24 without debate; or he may at his option, in the first instance,  
25 submit any such question to a vote of the Members of the

1 Senate. Upon all such questions the vote shall be taken in  
2 accordance with the Standing Rules of the Senate.

3 VIII. Upon the presentation of articles of impeachment  
4 and the organization of the Senate as hereinbefore provided,  
5 a writ of summons shall issue to the person impeached, recit-  
6 ing said articles, and notifying him to appear before the  
7 Senate upon a day and at a place to be fixed by the Senate  
8 and named in such writ, and file his answer to said articles of  
9 impeachment, and to stand to and abide the orders and judg-  
10 ments of the Senate thereon; which writ shall be served by  
11 such officer or person as shall be named in the precept there-  
12 of, such number of days prior to the day fixed for such ap-  
13 pearance as shall be named in such precept, either by the  
14 delivery of an attested copy thereof to the person impeached,  
15 or if that cannot conveniently be done, by leaving such copy  
16 at the last known place of abode of such person, or at his  
17 usual place of business in some conspicuous place therein; or  
18 if such service shall be, in the judgment of the Senate, im-  
19 practicable, notice to the person impeached to appear shall be  
20 given in such other manner, by publication or otherwise, as  
21 shall be deemed just; and if the writ aforesaid shall fail of  
22 service in the manner aforesaid, the proceedings shall not  
23 thereby abate, but further service may be made in such  
24 manner as the Senate shall direct. If the person impeached,  
25 after service, shall fail to appear, either in person or by attor-

1 ney, on the day so fixed therefor as aforesaid, or, appearing,  
2 shall fail to file his answer to such articles of impeachment,  
3 the trial shall proceed, nevertheless, as upon a plea of not  
4 guilty. If a plea of guilty shall be entered, judgment may be  
5 entered thereon without further proceedings.

6 IX. At 12:30 o'clock afternoon of the day appointed for  
7 the return of the summons against the person impeached, the  
8 legislative and executive business of the Senate shall be sus-  
9 pended, and the Secretary of the Senate shall administer an  
10 oath to the returning officer in the form following, viz: "I,  
11 \_\_\_\_\_, do solemnly swear that the return made by me  
12 upon the process issued on the \_\_\_\_\_ day of  
13 \_\_\_\_\_, by the Senate of the United States, against  
14 \_\_\_\_\_ is truly made, and that I have performed such  
15 service as therein described: So help me God." Which oath  
16 shall be entered at large on the records.

17 X. The person impeached shall then be called to appear  
18 and answer the articles of impeachment against him. If he  
19 appears, or any person for him, the appearance shall be re-  
20 corded, stating particularly if by himself, or by agent or attor-  
21 ney, naming the person appearing and the capacity in which  
22 he appears. If he do not appear, either personally or by agent  
23 or attorney, the same shall be recorded.

24 XI. That in the trial of any impeachment the Presiding  
25 Officer of the Senate, if the Senate so orders, shall appoint a

1 committee of Senators to receive evidence and take testimo-  
2 ny at such times and places as the committee may determine,  
3 and for such purpose the committee so appointed and the  
4 chairman thereof, to be elected by the committee, shall  
5 (unless otherwise ordered by the Senate) exercise all the  
6 powers and functions conferred upon the Senate and the Pre-  
7 siding Officer of the Senate, respectively, under the rules of  
8 procedure and practice in the Senate when sitting on im-  
9 peachment trials.

10 Unless otherwise ordered by the Senate, the rules of  
11 procedure and practice in the Senate when sitting on im-  
12 peachment trials shall govern the procedure and practice of  
13 the committee so appointed. The committee so appointed  
14 shall report to the Senate in writing a certified copy of the  
15 transcript of the proceedings and testimony had and given  
16 before such committee, and such report shall be received by  
17 the Senate and the evidence so received and the testimony so  
18 taken shall be considered to all intents and purposes, subject  
19 to the right of the Senate to determine competency, relevan-  
20 cy, and materiality, as having been received and taken before  
21 the Senate, but nothing herein shall prevent the Senate from  
22 sending for any witness and hearing his testimony in open  
23 Senate, or by order of the Senate having the entire trial in  
24 open Senate.

1 XII. At 12:30 o'clock afternoon, or at such other hour  
2 as the Senate may order, of the day appointed for the trial of  
3 an impeachment, the legislative and executive business of the  
4 Senate shall be suspended, and the Secretary shall give  
5 notice to the House of Representatives that the Senate is  
6 ready to proceed upon the impeachment of \_\_\_\_\_, in  
7 the Senate Chamber.

8 XIII. The hour of the day at which the Senate shall sit  
9 upon the trial of an impeachment shall be (unless otherwise  
10 ordered) 12 o'clock m.; and when the hour shall arrive, the  
11 Presiding Officer upon such trial shall cause proclamation to  
12 be made, and the business of the trial shall proceed. The  
13 adjournment of the Senate sitting in said trial shall not oper-  
14 ate as an adjournment of the Senate; but on such adjourn-  
15 ment the Senate shall resume the consideration of its legisla-  
16 tive and executive business.

17 XIV. The Secretary of the Senate shall record the pro-  
18 ceedings in cases of impeachment as in the case of legislative  
19 proceedings, and the same shall be reported in the same  
20 manner as the legislative proceedings of the Senate.

21 XV. Counsel for the parties shall be admitted to appear  
22 and be heard upon an impeachment.

23 XVI. All motions, objections, requests, or applications  
24 whether relating to the procedure of the Senate or relating  
25 immediately to the trial (including questions with respect to



1 admission of evidence or other questions arising during the  
2 trial) made by the parties or their counsel shall be addressed  
3 to the Presiding Officer only, and if he, or any Senator, shall  
4 require it, they shall be committed to writing, and read at the  
5 Secretary's table.

6 XVII. Witnesses shall be examined by one person on  
7 behalf of the party producing them, and then cross-examined  
8 by one person on the other side.

9 XVIII. If a Senator is called as a witness, he shall be  
10 sworn, and give his testimony standing in his place.

11 XIX. If a Senator wishes a question to be put to a  
12 witness, or to a manager, or to counsel of the person im-  
13 peached, or to offer a motion or order (except a motion to  
14 adjourn), it shall be reduced to writing, and put by the Pre-  
15 siding Officer. The parties or their counsel may interpose ob-  
16 jections to witnesses answering questions propounded at the  
17 request of any Senator and the merits of any such objection  
18 may be argued by the parties or their counsel. Ruling on any  
19 such objection shall be made as provided in Rule VII. It shall  
20 not be in order for any Senator to engage in colloquy.

21 XX. At all times while the Senate is sitting upon the  
22 trial of an impeachment the doors of the Senate shall be kept  
23 open, unless the Senate shall direct the doors to be closed  
24 while deliberating upon its decisions. A motion to close the  
25 doors may be acted upon without objection, or, if objection is

1 heard, the motion shall be voted on without debate by the  
2 yeas and nays, which shall be entered on the record.

3 XXI. All preliminary or interlocutory questions, and all  
4 motions, shall be argued for not exceeding one hour (unless  
5 the Senate otherwise orders) on each side.

6 XXII. The case, on each side, shall be opened by one  
7 person. The final argument on the merits may be made by  
8 two persons on each side (unless otherwise ordered by the  
9 Senate upon application for that purpose), and the argument  
10 shall be opened and closed on the part of the House of  
11 Representatives.

12 XXIII. An article of impeachment shall not be divisible  
13 for the purpose of voting thereon at any time during the trial.  
14 Once voting has commenced on an article of impeachment,  
15 voting shall be continued until voting has been completed on  
16 all articles of impeachment unless the Senate adjourns for a  
17 period not to exceed one day or adjourns sine die. On the  
18 final question whether the impeachment is sustained, the  
19 yeas and nays shall be taken on each article of impeachment  
20 separately; and if the impeachment shall not, upon any of the  
21 articles presented, be sustained by the votes of two-thirds of  
22 the Members present, a judgment of acquittal shall be en-  
23 tered; but if the person impeached shall be convicted upon  
24 any such article by the votes of two-thirds of the Members  
25 present, the Senate may proceed to the consideration of such

1 other matters as may be determined to be appropriate prior  
2 to pronouncing judgment. Upon pronouncing judgment, a cer-  
3 tified copy of such judgment shall be deposited in the office of  
4 the Secretary of State. A motion to reconsider the vote by  
5 which any article of impeachment is sustained or rejected  
6 shall not be in order.

7 *Form of putting the question on each article of impeachment*

8 The Presiding Officer shall first state the question;  
9 thereafter each Senator, as his name is called, shall rise in his  
10 place and answer: guilty or not guilty.

11 XXIV. All the orders and decisions may be acted upon  
12 without objection, or, if objection is heard, the orders and  
13 decisions shall be voted on without debate by yeas and nays,  
14 which shall be entered on the record, subject, however, to the  
15 operation of Rule VII, except when the doors shall be closed  
16 for deliberation, and in that case no Member shall speak more  
17 than once on one question, and for not more than ten minutes  
18 on an interlocutory question, and for not more than fifteen  
19 minutes on the final question, unless by consent of the  
20 Senate, to be had without debate; but a motion to adjourn  
21 may be decided without the yeas and nays, unless they be  
22 demanded by one-fifth of the Members present. The fifteen  
23 minutes herein allowed shall be for the whole deliberation on  
24 the final question, and not on the final question on each arti-  
25 cle of impeachment.

1 XXV. Witnesses shall be sworn in the following form,  
 2 viz: "You, , do swear (or affirm, as the case may  
 3 be) that the evidence you shall give in the case now pending  
 4 between the United States and , shall be the  
 5 truth, the whole truth, and nothing but the truth: So help you  
 6 God." Which oath shall be administered by the Secretary, or  
 7 any other duly authorized person.

8 *Form of a subpoena to be issued on the application of the managers of*  
 9 *the impeachment, or of the party impeached, or of his*  
 10 *counsel*

11 To , greeting:

12 You and each of you are hereby commanded to appear  
 13 before the Senate of the United States, on the  
 14 day of , at the Senate Chamber in the city of  
 15 Washington, then and there to testify your knowledge in the  
 16 cause which is before the Senate in which the House of Rep-  
 17 resentatives have impeached .

18 Fail not.

19 Witness , and Presiding Officer of the  
 20 Senate, at the city of Washington, this day of  
 21 , in the year of our Lord , and of  
 22 the Independence of the United States the .  
 23 ,  
 24 , Presiding Officer of the  
 25 Senate. -

1 ***form of direction for the service of said subpoena***

2 The Senate of the United States to , greet-  
3 ing:

4 You are hereby commanded to serve and return the  
5 within subpoena according to law.

6 Dated at Washington, this day of  
7 , in the year of our Lord , and of  
8 the Independence of the United States the

9  
10 Secretary of the Senate.

11 ***Form of oath to be administered to the Members of the Senate and the***  
12 ***Presiding Officer sitting in the trial of impeachments***

13 "I solemnly swear (or affirm, as the case may be) that in  
14 all things appertaining to the trial of the impeachment of  
15 , now pending, I will do impartial justice accord-  
16 ing to the Constitution and laws: So help me God."

17 ***form of summons to be issued and served upon the***  
18 ***person impeached***

19 The United States of America, ss:

20 The Senate of the United States to , greeting:

21 Whereas the House of Representatives of the United  
22 States of America did, on the day of  
23 , exhibit to the Senate articles of impeachment  
24 against you, the said , in the words following:

[Here insert the articles]

1 And demand that you, the said \_\_\_\_\_, should be put to  
 2 answer the accusations as set forth in said articles, and that  
 3 such proceedings, examinations, trials, and judgments might  
 4 be thereupon had as are agreeable to law and justice.

5 You, the said \_\_\_\_\_, are therefore hereby sum-  
 6 moned to be and appear before the Senate of the United  
 7 States of America, at their Chamber in the city of Washing-  
 8 ton, on the \_\_\_\_\_ day of \_\_\_\_\_, at  
 9 o'clock \_\_\_\_\_, then and there to answer to the said  
 10 articles of impeachment, and then and there to abide by,  
 11 obey, and perform such orders, directions, and judgments as  
 12 the Senate of the United States shall make in the premises  
 13 according to the Constitution and laws of the United States.

14 Hereof you are not to fail.

15 Witness \_\_\_\_\_, and Presiding Officer of the said  
 16 Senate, at the city of Washington, this \_\_\_\_\_ day of  
 17 \_\_\_\_\_, in the year of our Lord \_\_\_\_\_, and of  
 18 the Independence of the United States the \_\_\_\_\_.

19 \_\_\_\_\_,  
 20 \_\_\_\_\_ Presiding Officer of the  
 21 Senate.

22 ***form of precept to be indorsed on said writ of***  
 23 ***summons***

24 The United States of America, ss:

25 The Senate of the United States to \_\_\_\_\_, greeting:

