

118TH CONGRESS
2D SESSION

S. RES. 623

To provide for related procedures concerning the articles of impeachment against Alejandro Nicholas Mayorkas, Secretary of Homeland Security.

IN THE SENATE OF THE UNITED STATES

MARCH 22, 2024

Mr. KENNEDY (for himself, Mr. LEE, Mr. CRUZ, Mr. SCHMITT, and Mrs. BLACKBURN) submitted the following resolution; which was referred to the Committee on Rules and Administration

RESOLUTION

To provide for related procedures concerning the articles of impeachment against Alejandro Nicholas Mayorkas, Secretary of Homeland Security.

1 *Resolved,*

2 **SECTION 1. SUMMONS.**

3 (a) IN GENERAL.—Not later than 7 session days fol-
4 lowing the date on which the articles of impeachment with
5 respect to Alejandro Nicholas Mayorkas are transmitted,
6 pursuant to rule III of the Rules of Procedure and Prac-
7 tice in the Senate When Sitting on Impeachment Trials
8 (referred to in this resolution as the “Rules of Impeach-
9 ment”), the Senate shall proceed to the consideration of

1 the articles of impeachment and the Secretary of the Sen-
2 ate shall notify the House of Representatives of the time
3 and place fixed for the Senate to proceed upon the im-
4 peachment of Alejandro Nicholas Mayorkas in the Senate
5 Chamber.

6 (b) SUMMONS AND FILINGS.—Under rule VIII of the
7 Rules of Impeachment—

8 (1) the summons shall be issued in the usual
9 form to Alejandro Nicholas Mayorkas, provided that
10 he may have until 12 p.m. on the date that is 7 ses-
11 sion days after the date on which the articles of im-
12 peachment are transmitted, to file his answer with
13 the Secretary of the Senate;

14 (2) the House of Representatives may have
15 until 12 p.m. on the date that is 7 session days after
16 the date on which the summons is issued under
17 paragraph (1), to file its replication with the Sec-
18 retary of the Senate;

19 (3) if the House of Representatives wishes to
20 file a trial brief, it shall be filed by 10 a.m. on the
21 date on which the articles of impeachment are trans-
22 mitted;

23 (4) if Alejandro Nicholas Mayorkas wishes to
24 file a trial brief, it shall be filed by 10 a.m. on the

1 date that is 7 session days after the date on which
2 the summons is issued under paragraph (1); and

3 (5) the House of Representatives may file a re-
4 buttal brief no later than 10 a.m. on the date on
5 which impeachment proceedings begin.

6 **SEC. 2. IMPEACHMENT.**

7 (a) IN GENERAL.—The House of Representatives
8 shall file its record with the Secretary of the Senate, which
9 will consist of those publicly available materials that have
10 been submitted to or produced by the Committee on the
11 Judiciary of the House of Representatives, including tran-
12 scripts of public hearings or mark-ups and any materials
13 printed by the House of Representatives or the Committee
14 on the Judiciary of the House of Representatives pursuant
15 to House Resolution 863 (118th Congress), agreed to Feb-
16 ruary 13, 2024. All materials filed pursuant to this sub-
17 section shall be printed and made available to all parties.

18 (b) MOTIONS.—Alejandro Nicholas Mayorkas and the
19 House of Representatives shall have until 9 a.m. on the
20 date on which impeachment proceedings begin to file any
21 motions permitted under the Rules of Impeachment with
22 the exception of motions to subpoena witnesses or docu-
23 ments or any other evidentiary motions. Responses to any
24 such motions shall be filed no later than 11 a.m. on the
25 date on which impeachment proceedings begin. All mate-

1 rials filed pursuant to this subsection shall be filed with
2 the Secretary and be printed and made available to all
3 parties. Arguments on such motions shall begin at 12 p.m.
4 on the date on which impeachment proceedings begin, and
5 each side may determine the number of persons to make
6 its presentation, following which the Senate shall delib-
7 erate, if so ordered under the Rules of Impeachment, and
8 vote on any such motions.

9 (c) PRESENTATIONS BY PARTIES.—Following the
10 disposition of such motions, or if no motions are made,
11 then the House of Representatives shall make its presen-
12 tation in support of the articles of impeachment for a pe-
13 riod of time not to exceed 16 hours, over up to 2 session
14 days. If no motions are made under subsection (b), the
15 House of Representatives shall begin its presentation at
16 12 p.m. on the date on which impeachment proceedings
17 begin. Following the House of Representatives' presen-
18 tation, Alejandro Nicholas Mayorkas shall make his pres-
19 entation for a period not to exceed 16 hours, over up to
20 2 session days. Each side may determine the number of
21 persons to make its presentation. Each side shall have the
22 right to decide for how many hours it shall make its pres-
23 entation on each of the up to 2 session days allotted to
24 it, except that neither side shall make its presentation for
25 more than 8 hours on any single session day. The parties'

1 presentations need not be limited to argument from the
2 record described in subsection (a).

3 (d) PERIOD OF QUESTIONING.—Upon the conclusion
4 of the period allotted for presentations by the parties as
5 provided under subsection (c), Senators may question the
6 parties for a period of time not to exceed 4 hours over
7 not more than 1 session day.

8 (e) ARGUMENT AND DELIBERATION.—Upon conclu-
9 sion of the period allotted for Senators' questions as pro-
10 vided under subsection (d), there shall be 2 hours of argu-
11 ment, equally divided between the parties, followed by de-
12 liberation by the Senate, if so ordered under the Rules
13 of Impeachment, on the question of whether it shall be
14 in order to consider and debate under the Rules of Im-
15 peachment any motion to subpoena witnesses or docu-
16 ments. The Senate, without any intervening action, mo-
17 tion, or amendment, shall then decide by the yeas and
18 nays whether it shall be in order to consider and debate
19 under the Rules of Impeachment any motion to subpoena
20 witnesses or documents. Following the disposition of that
21 question, other motions provided under the Rules of Im-
22 peachment shall be in order.

23 (f) WITNESSES.—

24 (1) IN GENERAL.—If the Senate agrees to allow
25 either the House of Representatives or Alejandro

1 Nicholas Mayorkas to subpoena witnesses, the wit-
2 nesses shall first be deposed and the parties shall be
3 allowed other appropriate discovery. The Senate
4 shall decide after deposition and other appropriate
5 discovery which, if any, witnesses shall testify, pur-
6 suant to the Rules of Impeachment. No testimony
7 shall be admissible in the Senate unless the parties
8 have had the opportunity to depose such witnesses
9 and to conduct other appropriate discovery.

10 (2) RULES.—If the Senate agrees to allow ei-
11 ther party to subpoena witnesses, provisions for the
12 admission of evidence, issuance of subpoenas, ar-
13 rangements for depositions, other appropriate dis-
14 covery, testimony by witnesses in the Senate, if such
15 testimony is ordered by the Senate, and any related
16 matters are to be determined by subsequent resolu-
17 tion of the Senate.

18 (g) MOTION TO ADMIT EVIDENCE.—

19 (1) IN GENERAL.—If the Senate decides that
20 no party shall be permitted to subpoena witnesses
21 pursuant to subsection (f), the House of Representa-
22 tives shall be recognized to make a motion to admit
23 into evidence the materials relied upon by the House
24 of Representatives during the trial. The House of
25 Representatives shall be recognized to make such a

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

1 ators voting, a quorum being present, shall vote in
2 the affirmative, the materials shall be admitted into
3 evidence. If a majority of Senators voting, a quorum
4 being present, shall vote in the negative, the mate-
5 rials shall not be admitted into evidence.

6 (2) EXCEPTION TO DISCLOSURE REQUIRE-
7 MENTS.—The disclosure requirements established
8 under paragraph (1) shall not apply to evidence dis-
9 covered by the movant after the disclosure deadline,
10 so long as the movant declares in writing that the
11 movant was unaware of such evidence until after the
12 disclosure deadline, and that such evidence could not
13 reasonably have been discovered until after the dis-
14 closure deadline.

15 (3) RULE OF CONSTRUCTION.—The admission
16 of any evidence pursuant to this subsection shall not
17 be treated as a concession by any party as to the
18 truth of the matter asserted by the parties, and the
19 Senate as the trier of fact shall decide the weight to
20 be given such evidence.

21 (h) CONVENING ON SUNDAY.—Unless the Senate
22 shall have already voted on the articles of impeachment,
23 the Senate shall convene as a Court of Impeachment at
24 2 p.m. on the Sunday following the date on which im-

1 peachment proceedings begin, notwithstanding rule III of
2 the Rules of Impeachment.

3 (i) FINAL ARGUMENTS.—Immediately upon the con-
4 clusion of any action by the Senate under subsection (g),
5 or immediately upon the next day on which the Senate
6 reconvenes as a Court of Impeachment after the conclu-
7 sion of such action, the Senate shall proceed to final argu-
8 ments as provided in the Rules of Impeachment, waiving
9 the 2-person rule contained in rule XXII of the Rules of
10 Impeachment. Such arguments shall not exceed 4 hours,
11 equally divided between the parties.

12 (j) VOTE.—At the conclusion of final arguments as
13 provided under subsection (i), the Senate, without inter-
14 vening action, except for deliberation if so ordered under
15 the Rules of Impeachment, shall vote on the articles of
16 impeachment.

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