

Calendar No. 351

118TH CONGRESS
2^D SESSION

S. J. RES. 67

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 23 (legislative day, MARCH 22), 2024

Mr. LEE introduced the following joint resolution; which was read the first time

APRIL 8, 2024

Read the second time and placed on the calendar

JOINT RESOLUTION

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

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*

3 **SECTION 1. SUMMONS.**

4 (a) IN GENERAL.—Not later than 7 session days fol-
5 lowing the date on which the articles of impeachment with
6 respect to Alejandro Nicholas Mayorkas are transmitted,
7 pursuant to rule III of the Rules of Procedure and Prac-

1 tice in the Senate When Sitting on Impeachment Trials
2 (referred to in this resolution as the “Rules of Impeach-
3 ment”), the Senate shall proceed to the consideration of
4 the articles of impeachment and the Secretary of the Sen-
5 ate shall notify the House of Representatives of the time
6 and place fixed for the Senate to proceed upon the im-
7 peachment of Alejandro Nicholas Mayorkas in the Senate
8 Chamber.

9 (b) SUMMONS AND FILINGS.—Under rule VIII of the
10 Rules of Impeachment—

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

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

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

1 (4) if Alejandro Nicholas Mayorkas wishes to
2 file a trial brief, it shall be filed by 10 a.m. on the
3 date that is 7 session days after the date on which
4 the summons is issued under paragraph (1); and

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

8 **SEC. 2. IMPEACHMENT.**

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

20 (b) MOTIONS.—Alejandro Nicholas Mayorkas and the
21 House of Representatives shall have until 9 a.m. on the
22 date on which impeachment proceedings begin to file any
23 motions permitted under the Rules of Impeachment with
24 the exception of motions to subpoena witnesses or docu-
25 ments or any other evidentiary motions. Responses to any

1 such motions shall be filed no later than 11 a.m. on the
2 date on which impeachment proceedings begin. All mate-
3 rials filed pursuant to this subsection shall be filed with
4 the Secretary and be printed and made available to all
5 parties. Arguments on such motions shall begin at 12 p.m.
6 on the date on which impeachment proceedings begin, and
7 each side may determine the number of persons to make
8 its presentation, following which the Senate shall delib-
9 erate, if so ordered under the Rules of Impeachment, and
10 vote on any such motions.

11 (c) PRESENTATIONS BY PARTIES.—Following the
12 disposition of such motions, or if no motions are made,
13 then the House of Representatives shall make its presen-
14 tation in support of the articles of impeachment for a pe-
15 riod of time not to exceed 16 hours, over up to 2 session
16 days. If no motions are made under subsection (b), the
17 House of Representatives shall begin its presentation at
18 12 p.m. on the date on which impeachment proceedings
19 begin. Following the House of Representatives' presen-
20 tation, Alejandro Nicholas Mayorkas shall make his pres-
21 entation for a period not to exceed 16 hours, over up to
22 2 session days. Each side may determine the number of
23 persons to make its presentation. Each side shall have the
24 right to decide for how many hours it shall make its pres-
25 entation on each of the up to 2 session days allotted to

1 it, except that neither side shall make its presentation for
2 more than 8 hours on any single session day. The parties'
3 presentations need not be limited to argument from the
4 record described in subsection (a).

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

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

25 (f) WITNESSES.—

1 (1) IN GENERAL.—If the Senate agrees to allow
2 either the House of Representatives or Alejandro
3 Nicholas Mayorkas to subpoena witnesses, the wit-
4 nesses shall first be deposed and the parties shall be
5 allowed other appropriate discovery. The Senate
6 shall decide after deposition and other appropriate
7 discovery which, if any, witnesses shall testify, pur-
8 suant to the Rules of Impeachment. No testimony
9 shall be admissible in the Senate unless the parties
10 have had the opportunity to depose such witnesses
11 and to conduct other appropriate discovery.

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

20 (g) MOTION TO ADMIT EVIDENCE.—

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

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

1 then decide by the yeas and nays whether to admit
2 into evidence such materials. If a majority of Sen-
3 ators voting, a quorum being present, shall vote in
4 the affirmative, the materials shall be admitted into
5 evidence. If a majority of Senators voting, a quorum
6 being present, shall vote in the negative, the mate-
7 rials shall not be admitted into evidence.

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

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

23 (h) CONVENING ON SUNDAY.—Unless the Senate
24 shall have already voted on the articles of impeachment,
25 the Senate shall convene as a Court of Impeachment at

1 2 p.m. on the Sunday following the date on which im-
2 peachment proceedings begin, notwithstanding rule III of
3 the Rules of Impeachment.

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

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

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