

[2] Such committee shall also study and review, on a comprehensive basis, matters relating to international economic policy as it affects United States monetary affairs, credit, and financial institutions; economic growth, urban affairs, and credit, and report thereon from time to time.

COMMITTEE PROCEDURES FOR PRESIDENTIAL NOMINEES

Procedures formally adopted by the U.S. Senate Committee on Banking, Housing, and Urban Affairs, February 11, 2021, establish a uniform questionnaire for all Presidential nominees whose confirmation hearings come before this Committee.

In addition, the procedures establish that:

[1] A confirmation hearing shall normally be held at least 5 days after receipt of the completed questionnaire by the Committee unless waived by a majority vote of the Committee.

[2] The Committee shall vote on the confirmation not less than 24 hours after the Committee has received transcripts of the hearing unless waived by unanimous consent.

[3] All nominees routinely shall testify under oath at their confirmation hearings.

This questionnaire shall be made a part of the public record except for financial and other personal information, which shall be kept confidential as indicated on the questionnaire.

Nominees are requested to answer all questions, and to add additional pages where necessary.

SENATE COMMITTEE ON INDIAN AFFAIRS RULES OF PROCEDURE

Mr. SCHATZ. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs Rules for the 117th Congress be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE ON INDIAN AFFAIRS—117TH CONGRESS COMMITTEE RULES

COMMITTEE ON INDIAN AFFAIRS RULES OF PROCEDURE

Rule 1. The Standing Rules of the Senate, Senate Resolution 4, and the provisions of the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970, as supplemented by these rules, are adopted as the rules of the Committee to the extent the provisions of such Rules, Resolution, and Acts are applicable to the Committee on Indian Affairs.

MEETING OF THE COMMITTEE

Rule 2. The Committee shall meet on Wednesday while the Congress is in session for the purpose of conducting business, unless for the convenience of the Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he or she may deem necessary.

OPEN HEARINGS AND MEETINGS

Rule 3(a). Hearings and business meetings of the Committee shall be open to the public except when the Chairman by a majority vote orders a closed hearing or meeting.

(b). Except as otherwise provided in the Rules of the Senate, a transcript or electronic recording shall be kept of each hearing and business meeting of the Committee.

HEARING PROCEDURE

Rule 4(a). Public notice, including notice to Members of the Committee, shall be given of the date, place, and subject matter of any

hearing to be held by the Committee at least one week in advance of such hearing unless the Chairman of the Committee, with the concurrence of the Vice Chairman, determines that holding the hearing would be non-controversial or that special circumstances require expedited procedures and a majority of the Committee Members attending concur. In no case shall a hearing be conducted within less than 24 hours' notice.

(b). Each witness who is to appear before the Committee shall submit his or her testimony by way of electronic mail, at least two (2) business days prior to a hearing, in a format determined by the Committee and sent to an electronic mail address specified by the Committee. In the event a federal witness fails to timely file the written statement in accordance with this rule, the federal witness shall testify as to the reason the testimony is late.

(c). Each Member shall be limited to five (5) minutes of questioning of any witness until such time as all Members attending who so desire have had an opportunity to question the witness unless the Committee shall decide otherwise.

(d) The Chairman, in consultation with the Vice Chairman, may authorize remote hearings via video conference.

BUSINESS MEETING AGENDA

Rule 5(a). A legislative measure or subject shall be included in the agenda of the next following business meeting of the Committee if a written request by a Member for consideration of such measure or subject has been filed with the Chairman of the Committee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the Committee to include legislative measures or subjects on the Committee agenda in the absence of such request.

(b). Any bill, resolution, or other matter to be considered by the Committee at a business meeting shall be filed with the Clerk of the Committee. Notice of, and the agenda for, any business meeting of the Committee, and a copy of any bill, resolution, or other matter to be considered at the meeting, shall be provided to each Member and made available to the public at least three (3) business days prior to such meeting, and no new items may be added after the agenda is published except by the approval of the Chairman with the concurrence of the Vice Chairman or by a majority of the Members of the Committee. The notice and agenda of any business meeting may be provided to the Members by electronic mail, provided that a paper copy will be provided to any Member upon request. The Clerk shall promptly notify absent Members of any action taken by the Committee on matters not included in the published agenda.

(c). Any amendment(s) to any bill or resolution to be considered shall be filed by a Member of the Committee with the Clerk not less than 48 hours in advance of the scheduled business meeting. This rule may be waived by the Chairman with the concurrence of the Vice Chairman.

QUORUM

Rule 6(a). Except as provided in subsection (b), a majority of the Members shall constitute a quorum for the transaction of business of the Committee. Except as provided in Senate Rule XXVI 7(a), a quorum is presumed to be present unless a Committee Member notes the absence of a quorum.

(b). One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure or matter before the Committee.

VOTING

Rule 7(a). A recorded vote of the Members shall be taken upon the request of any Member.

(b). A measure may be reported without a recorded vote from the Committee unless an objection is made by any Member, in which case a recorded vote by the Members shall be required. A Member shall have the right to have his or her additional views included in the Committee report on the measure in accordance with Senate Rule XXVI 10.

(c). A Committee vote to report a measure to the Senate shall also authorize the staff of the Committee to make necessary technical and conforming changes to the measure.

(d). Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only for the date for which it is given and upon the terms published in the agenda for that date.

SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 8(a). Witnesses in Committee hearings who are required to give testimony shall be deemed under oath.

(b). At any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any Member, any other witnesses that come before the Committee shall also be under oath. Every nominee shall submit a questionnaire on forms to be provided by the Committee, ethics agreement, and public financial disclosure report, (OGE Form 278 or a successor form) which shall be sworn to by the nominee as to its completeness and accuracy and be accompanied by a letter issued by the nominee within five (5) days immediately preceding the hearing affirming that nothing has changed in their financial status or documents since the documents were originally filed with the Committee. The public financial disclosure report and ethics agreement shall be made available to the public by the Committee unless the Committee, in executive session, determines that special circumstances require a full or partial exception to this rule.

CONFIDENTIAL TESTIMONY

Rule 9. No confidential testimony taken by, or confidential material presented to the Committee, or any report of the proceedings of a closed Committee hearing or business meeting shall be made public in whole or in part, or by way of summary, unless authorized by a majority of the Members of the Committee at a business meeting called for the purpose of making such a determination.

DEFAMATORY STATEMENTS

Rule 10. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee hearing tends to defame him or her or otherwise adversely affects his or her reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony of evidence.

BROADCASTING OF HEARINGS OR MEETINGS

Rule 11. Any meeting or hearing by the Committee which is open to the public may be covered in whole or in part by television, Internet, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the sight, vision, and hearing of Members and staff on the dais or with the orderly process of the meeting or hearing.

AUTHORIZING SUBPOENAS

Rule 12. The Chairman may, with the agreement of the Vice Chairman, or the Committee may, by majority vote, authorize the issuance of subpoenas.

AMENDING THE RULES

Rule 13. These rules may be amended only by a vote of a majority of all the Members of

the Committee in a business meeting of the Committee: Provided, that no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the Committee agenda for such meeting at least seven (7) days in advance of such meeting.

IMPEACHMENT

Mr. CRUZ. Mr. President, I ask unanimous consent that the following op-ed be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Fox News, Feb. 9, 2021]

SEN. TED CRUZ: SHOULD THE SENATE EXERCISE IMPEACHMENT TRIAL? WHY THE ANSWER MATTERS

(By Ted Cruz)

The constitutional question of whether a former president can be impeached or tried after he has left office is a close legal question. On balance, I believe that the better constitutional argument is that a former president can be impeached and tried—that is, that the Senate has jurisdiction to hold a trial.

However, nothing in the text of the Constitution requires the Senate to choose to exercise jurisdiction. In these particular circumstances, I believe the Senate should decline to exercise jurisdiction—and so I voted to dismiss this impeachment on jurisdictional grounds.

Article I, Section 2 of the Constitution gives the House “the sole Power of impeachment,” and Section 3 gives the Senate “the sole Power to try all impeachments.” At the time the Constitution was adopted, there was meaningful debate over whether impeachment encompassed so-called “late impeachments,” i.e. after the person had left office.

The British common law, which informed the understanding of the Founders, suggests that the better answer is yes.

In the 18th century, there were two English impeachments of note: Lord Chancellor Macclesfield in 1725 and India’s Governor-General Warren Hastings, which extended from 1787 to 1795. Both were late impeachments (after they had left office). Shortly after the Founding, a third British impeachment occurred: Lord Melville in 1806. His impeachment also occurred after he left office.

The American experience is similar. In 1797, the House impeached Sen. William Blount, and in 1876 the House impeached Secretary of War William Belknap. Both had left office by the time articles of impeachment were delivered to the Senate.

With Blount, the Senate voted that it lacked jurisdiction (although principally because he had been a senator and not a member of the executive), and with Belknap, the Senate voted that it had jurisdiction but declined to convict.

To be sure, there is textual ambiguity on the question of whether impeachments of a former president are constitutional.

One can look to other provisions of the Constitution—such as article II, Section 4’s reference to “the President” (not “a President”), and that same section’s language that says an impeached individual who is convicted “shall be removed from office”—and conclude in good faith that late impeachments are not permissible.

However, given the historical underpinnings and the Constitution’s broad textual commitment (“sole power”) of the impeachment power to the House and Senate, I believe the best reading of the Constitution is that the Senate retains jurisdic-

tion. Imagine, for example, that evidence were uncovered that a former president had sold nuclear secrets to the Chinese government. In that instance, where the president had hypothetically committed both treason and bribery (explicit grounds for impeachment in the Constitution), there is little question that both the House and Senate would have exercise jurisdiction to impeach and try those crimes.

Importantly, there are two types of jurisdiction: mandatory and discretionary. With mandatory jurisdiction, the tribunal must hear the case; with discretionary jurisdiction, the tribunal can decide whether to exercise its legal authority to hear the case. For example, the vast majority of the Supreme Court’s caseload arises on discretionary jurisdiction—it has the authority to hear most cases, but it doesn’t have to do so. And nothing in the Constitution makes the Senate’s impeachment jurisdiction mandatory. “Sole power” means “sole power”—the Senate can decide whether to hear the case.

The present impeachment is an exercise of partisan retribution, not a legitimate exercise of constitutional authority.

The House impeached President Trump in a mere seven days. It conducted no hearings. It examined no evidence. It heard not a single witness.

For four years, congressional Democrats have directed hatred and contempt at Donald J. Trump, and even greater fury at the voters who elected him.

On the merits, President Trump’s conduct does not come close to meeting the legal standard for incitement—the only charge brought against him.

His rhetoric was at times over-heated, and I wish it were not, but he did not urge anyone to commit acts of violence. And if generic exhortations to “fight” or “win” or “take back our country” are now indictable, well, be prepared to arrest every candidate who’s ever run for office or given a stump speech.

House Democrats argue that these circumstances are different. The situation was politically charged. The protesters were angry. And what started as a peaceful protest on the Ellipse ended up with some of the protestors engaging in a violent terrorist assault on the Capitol that tragically took the life of a police officer.

If that’s the new standard—and if strong rhetoric constitutes “High Crimes and Misdemeanors”—then Congress better prepare to remove House Speaker Nancy Pelosi, D-Calif., Rep. Maxine Waters, D-Calif., Sen. Chuck Schumer, D-N.Y. and former Sen. Kamala Harris, D-Calif., next.

Repeatedly over the past four years, multiple Democrats have engaged in incendiary rhetoric and encouraged civil unrest, including Speaker Nancy Pelosi who expressly compared law enforcement to Nazis, Rep. Waters, who emphatically encouraged a campaign of intimidation and harassment of political opponents, Sen. Schumer, who made threats—by name—to “release the whirlwind” against two sitting justices of the Supreme Court, and then-Sen. Harris, who actively campaigned to provide financial support, in the form of bail, for rioters last summer even after hundreds of law enforcement officers were injured and many people, including retired St. Louis police captain David Dorn, were brutally murdered.

There is no coherent rationale that renders President Trump’s remarks “incitement,” and somehow exonerates the angry rhetoric of countless Democrats. If Trump’s speech at the Ellipse was incitement, so too was Schumer’s threat on the steps of the Supreme Court.

The honest answer is both may have been irresponsible, but neither meets the legal standard for incitement.

Accordingly, I voted against the Senate taking jurisdiction in this trial. In different circumstances, the Senate could choose to exercise its constitutional authority to try a former office-holder. But here, when the House has impeached without evidence or Due Process, and when it is petty and vindictive and it fails to meet the legal standard, then the Senate should have declined to exercise jurisdiction.

President Trump is no longer in office, and nothing is served—other than partisan vengeance—by conducting yet another impeachment trial.

ADDITIONAL STATEMENTS

TRIBUTE TO LESLEY ROBINSON

• Mr. DAINES. Mr. President, this week I have the honor of recognizing Lesley Robinson of Phillips County. Lesley recently made history when she became the first woman elected as the Montana Stockgrowers Association’s second vice president.

Lesley is not afraid to be the first in any venture. Her past experience as a leader in Montana began in 1996 when she became the second woman ever elected to serve on the board of directors for the Montana Stockgrowers. Lesley also ran for office and was elected as a Phillips County commissioner in 2005. During her 12-year tenure as a commissioner, Lesley was a strong advocate for Phillips County and rural Montana. She also had a leadership role on the Executive Committee for the National Association of Counties. Most recently, Lesley served as former Congressman Greg Gianforte’s State director.

As a fourth-generation rancher, Lesley knows the importance of hard work. She and her husband, Jim, own a commercial cow/calf and yearling operation near Zortman, MT. Her past leadership roles and ranching experiences have led her to be a fierce voice for agriculture and the importance it has as Montana’s No. 1 economic driver.

It is my honor to recognize Lesley for her leadership and service to Montana. I look forward to hearing about her continued success.●

TRIBUTE TO GARY HERBERT

• Mr. ROMNEY. Mr. President, I rise to congratulate my friend Gary Herbert on a career of esteemed public service. Gary’s steady hand of leadership as the 17th Governor of Utah guided our State closer to fulfilling its promise of safety, security, and prosperity for all Utahns.

A son of Orem, UT, Gary faithfully answered his call to service in his early life and career. From his missionary service for The Church of Jesus Christ of Latter-day Saints, to his military and civil service as a staff sergeant in the Utah Army National Guard, to elected office, Gary’s unwavering early commitment to public service earned him the respect and experience necessary for future success.