

Senate Resolution No. 4—Senators Raggio and Titus

FILE NUMBER.....

SENATE RESOLUTION—Amending the Rules of the Senate for the 21st Special Session of the Nevada Legislature to include procedures for considering Articles of Impeachment.

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That the Rules of the Senate for the 21st Special Session of the Nevada Legislature are amended by the following additions:

***X. PROCEDURES FOR CONSIDERATION OF
ARTICLES OF IMPEACHMENT***

Rule No. 49. Organization.

1. Upon receipt of Articles of Impeachment from the Assembly, the Senate shall prepare to conduct proceedings on impeachment. The Senate may conduct the proceedings on impeachment while sitting as a Committee of the Whole.

2. The Senate shall assign a day for commencing the proceedings on impeachment and identify the prosecutor of the Articles of Impeachment.

3. The President of the Senate shall cause a copy of the Articles of Impeachment, with a notice to appear and answer the same in person or by counsel at the time and place appointed and a copy of these rules, to be served upon the defendant.

4. All matters relating to the impeachment if not having a specific order of business will be considered a special order of the day.

5. Upon completion of its duties with respect to the impeachment, the Committee of the Whole shall rise and the Senate shall reconvene to receive the report from the Committee.

Rule No. 50. Gubernatorial Appointment to Fill Vacancy.

1. A letter of intent to appoint a person to temporarily fill the vacancy in the Office of the State Controller submitted by the Governor must be read into the record.

2. The motion for reconsideration is out of order if the Senate affirmatively votes to consent to the appointment.

3. If the Senate does not affirmatively consent to the appointment, the Governor shall submit to the Senate for its advice and consent another letter of intent to appoint a different person to temporarily fill the vacancy.

Rule No. 51. Preliminary Matters.

1. Before convening as a Committee of the Whole to hold proceedings on impeachment, the Secretary of the Senate shall

administer an oath to the President of the Senate. The President of the Senate shall then administer an oath to each of the members of the Senate, by which they swear to do justice according to law and evidence in the proceedings on impeachment.

2. The defendant may be represented by counsel throughout the proceedings.

3. If the defendant intends to object to the sufficiency of the Articles of Impeachment, the defendant must submit to the Secretary of the Senate a written explanation and support for such objection at least 3 days before the date scheduled for the commencement of the proceedings on impeachment.

4. At the time fixed for the commencement of the proceedings on impeachment, the Committee shall call the defendant to appear and answer the Articles of Impeachment. If the defendant does not appear in person or by counsel, the defendant shall be deemed to have entered a plea of guilty.

5. When the defendant appears before the Committee, the defendant may object to the sufficiency of the Articles of Impeachment if the defendant has submitted a written explanation pursuant to subsection 3, or may answer by an oral plea of not guilty.

6. If the defendant objects to the sufficiency of the Articles of Impeachment, the Chairman will open the hearing and discussion on the objection to the sufficiency of the Articles of Impeachment. Oral argument supporting the objection may be presented to the Committee by the defendant or counsel for the defendant, and oral argument opposing the objection may be presented to the Committee by the prosecutor. Such arguments must not exceed 30 minutes, unless the Chairman authorizes a longer period. Upon conclusion of the discussion of the objection, the Committee shall rise and the Senate shall reconvene to consider whether to sustain the objection to the sufficiency of the Articles of Impeachment.

7. If the objection to the sufficiency of the Articles of Impeachment is sustained by a majority vote of the members of the Senate who heard the argument, the proceedings on impeachment must be dismissed. If the objection is not sustained, the defendant must be ordered to answer the Articles of Impeachment. If the defendant refuses to answer, the defendant shall be deemed to have entered a plea of guilty.

Rule No. 52. Eligibility of Senators.

1. Notwithstanding the provisions of NRS 281.501, each Senator is, by virtue of his office, eligible to participate and vote in the proceedings on impeachment, and no Senator is subject to disqualification.

2. *A Senator who is absent for any reason during any portion of the proceedings concerning impeachment must be provided an opportunity to review any available exhibits, videotapes and transcripts from that portion of the proceedings.*

Rule No. 53. Planning Conference.

1. *The Director of the Legislative Counsel Bureau shall meet with the prosecutor and the defendant or counsel for the defendant one or more times, as determined by the Director, before the commencement of the proceedings on impeachment to exchange a list of witnesses whom each intends to call and copies of exhibits each intends to introduce during the proceedings on impeachment. Each shall provide a copy of the list of witnesses and a copy of the exhibits and shall submit a statement which provides a summary of their case to the Director which the Director shall forward to each member of the Senate.*

2. *Only the witnesses and exhibits disclosed during a planning conference may be heard or introduced during the proceedings on impeachment, and only if approved by the Chairman, unless the party shows good cause why the new witness or exhibit was not disclosed during a planning conference.*

3. *Information and documentation exchanged during the planning conference and the summary statements must be kept confidential by each person to whom a copy is provided until such information and documentation has been made public by the Committee of the Whole.*

4. *The Chairman may rule on whether any witness or exhibit which is disclosed during the planning conference is relevant and germane.*

Rule No. 54. Powers.

1. *The Committee of the Whole has all powers granted to the Legislature to investigate and conduct hearings. The Chairman may issue subpoenas for witnesses, documents, records and any other relevant evidence, may administer oaths or cause oaths to be administered, may cause testimony to be taken and recorded, and may hold a person in contempt for disobeying a subpoena.*

2. *The prosecutor, the defendant or counsel for the defendant may request the Chairman to issue a subpoena which the Chairman may issue at his discretion.*

Rule No. 55. Order of Proof.

1. *The prosecutor may make an opening statement to the Committee of the Whole, which must not exceed 45 minutes. The defendant, or counsel for the defendant, may then make an opening statement to the Committee of the Whole, which must not*

exceed 45 minutes. Upon the motion of either party before commencement of the opening statement by that party, the time for the opening statement may be extended by the Chairman.

2. The Chairman of the Committee shall determine the order of the presentation of evidence.

3. Upon conclusion of the presentation of all of the evidence, the prosecutor may present a closing argument to the Committee, which must not exceed 1 hour. The defendant, or counsel for the defendant, may then present a closing argument to the Committee, which must not exceed 1 hour. Upon the motion of either party before commencement of the closing argument of the party, the time for the closing argument may be extended by the Chairman.

Rule No. 56. Witnesses.

1. A person who may be called as a witness during the proceedings on impeachment shall not communicate with any other potential witness or person who has already testified about the proceedings and any matter about which the person may testify or present evidence until the conclusion of the proceedings on impeachment. Such a person, other than the defendant, shall not attend any hearing of the Senate or the Committee of the Whole and shall not otherwise listen to or view the proceedings of the Senate or the Committee of the Whole until after the person has completed providing testimony in the proceedings. On the day on which a witness will be called to testify, the witness shall wait outside the room in which the proceedings are being held at a place instructed by the Secretary of the Senate until summoned.

2. A person who may be or who is called as a witness during the proceedings on impeachment shall not communicate with a Senator until the conclusion of the proceedings on impeachment.

3. Before any witness provides testimony or gives a statement, the Chairman of the Committee of the Whole, or a person designated by the Chairman, shall administer to the witness the following oath:

“Do you solemnly swear or affirm that the testimony and any evidence you shall give in this matter shall be the truth, the whole truth and nothing but the truth?”

4. A witness must be examined by the party producing him for not more than 30 minutes, unless the Chairman authorizes a longer period. The witness may then be cross-examined by the opposing party for not more than 30 minutes, unless the Chairman authorizes a longer period.

5. The Chairman of the Committee may allow redirect and recross-examination.

6. After the prosecutor and the counsel for the defendant have completed questioning a witness, any Senator may question the witness for not more than 5 minutes, unless the Chairman authorizes a longer period.

7. Counsel may object to questions posed to the witnesses. The Chairman of the Committee shall determine whether to sustain such an objection. The Chairman will not admit any evidence which is not relevant and germane.

Rule No. 57. Immunity.

Neither the defense nor the prosecution may call a member of the Senate, the President of the Senate, a member of the Assembly, the counsel or staff of any of them, the staff of the Legislature or an employee of the Legislative Counsel Bureau as a witness, or subpoena the personal records or work papers of any of them.

Rule No. 58. Procedural Rulings.

1. The Chairman of the Committee of the Whole rules on all objections, motions, pleas and procedural questions made by the prosecutor and the defendant or counsel for the defendant. The ruling of the Chairman shall be the judgment of the Committee, unless three Senators move to have the question submitted to a vote of a majority of the Senators present.

2. Formal rules of evidence do not apply to the proceedings on impeachment.

3. Arguments by the prosecution and the defense on motions may be allowed with the approval of the Chairman of the Committee and shall not exceed 15 minutes, unless further extended by the Chairman.

Rule No. 59. Final Determination.

1. After receiving the report from the Committee of the Whole, the final question of whether the impeachment is sustained must be submitted to a vote of the Senate. A vote shall be taken on each Article of Impeachment separately; and if none of the Articles of Impeachment are sustained by the vote of two-thirds of the Senators elected, a judgment of acquittal shall be pronounced and entered.

2. If the Senate votes to convict the defendant on any Article of Impeachment by the vote of two-thirds of the Senators elected, the Senate shall proceed to consider whether any sanction shall be imposed. Any such sanction shall be included in the pronouncement of judgment in the form of a resolution adopted by a majority vote which shall be entered upon the Journal of the Senate.

Rule No. 60. Maintenance of Records.

1. The Secretary of the Senate shall keep the record of the Committee of the Whole and perform or cause to be performed all other duties necessary to assist the Committee in carrying out its duties.

2. The Secretary of the Senate shall record and report the proceedings on impeachment of the Committee in the same manner as for legislative proceedings of the Senate.

3. Any exhibit that is presented to the Committee shall be listed in the Journal of the Senate without the text of the exhibit. The text of such exhibits shall be archived and made available for inspection upon request.

4. Notwithstanding the provisions of this section, minutes, records and documents of any meeting of the Committee of the Whole which is closed to the public do not become public until the Committee of the Whole determines that the matters discussed no longer require confidentiality.

Rule No. 61. Additional Rulings on Procedure.

The Chairman of the Committee of the Whole may adopt such additional procedures as the Chairman deems necessary for the conduct of the Committee hearings so long as such additional procedures do not conflict with Rules 49 to 60, inclusive, of the Rules of the Senate for the 21st Special Session of the Legislature.