

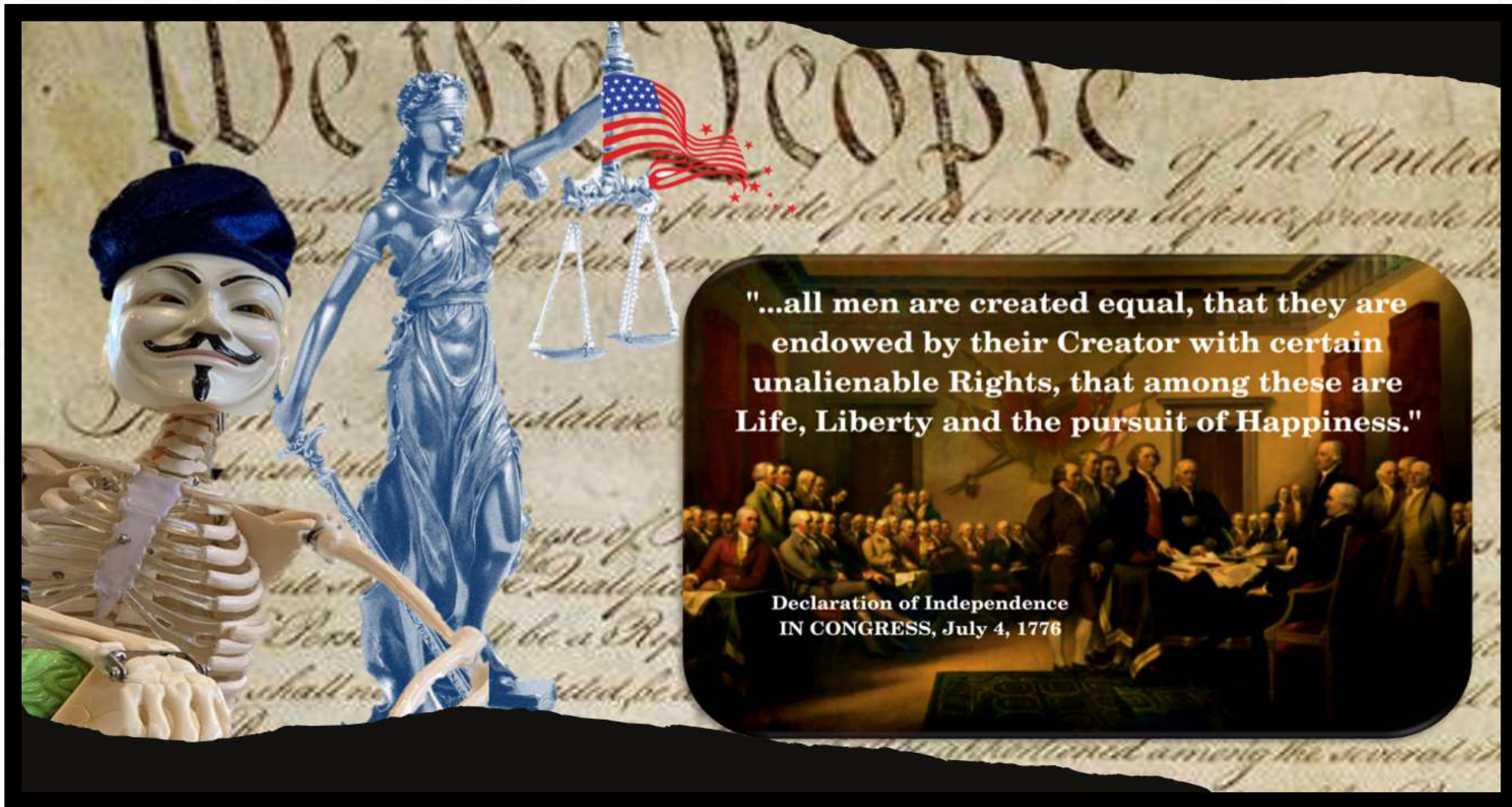
# CRS R45769: THE IMPEACHMENT PROCESS IN THE HOUSE OF REPRESENTATIVES

Overview



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**"...all men are created equal, that they are  
endowed by their Creator with certain  
unalienable Rights, that among these are  
Life, Liberty and the pursuit of Happiness."**

**Declaration of Independence  
IN CONGRESS, July 4, 1776**

# Introduction

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## The Impeachment Process in the House of Representatives

Updated January 25, 2024

- Impeachment investigations are governed by the standing rules of the House that govern all committee investigations, the terms of the resolution authorizing the investigation, and any additional rules adopted by the committee specifically for the inquiry.
- The process noted in this report has been mainly use to impeach federal judges.
- The summary of the rules and procedures are drawn from published sources of congressional rules and precedents, as well as public records of past impeachment proceedings.
- The report provides an overview of the procedures and **SHOULD NOT** be treated or cited as an authority to congressional proceedings. Consultation with the Parliamentarian of the House is always advised regarding the possible application of rules and precedents.



# Who has the SOLE Power over Impeachment?

- The Constitution has assigned this responsibility to the *U.S. House of Representatives*. This is noted under *Article I: Legislative Branch > Section 2 House of Representatives > Clause 5 Impeachment*

***"The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment."***

- The above grants the *"House of Representatives"* the power to investigate the claims, make a determination to proceed or deny and draft the articles of impeachment or accusations of misconduct.
- Only the House of Representatives can make the final determination to impeach an officer after examining all of the evidence.
- In regard to Judicial Impeachments, the House's decision of whether to impeach a judge is analogous to an indictment, in which the House acts as a grand jury.



U.S. House of Representatives Chamber  
Washington, D.C., U.S.A.

See [Overview of Impeachment](#) | [Constitution Annotated](#) | [Congress.gov](#) | [Library of Congress](#) >  
[https://constitution.congress.gov/browse/essay/artI-S2-C5-1/ALDE\\_00000030/](https://constitution.congress.gov/browse/essay/artI-S2-C5-1/ALDE_00000030/)

# How is the House Composed?



The Composition of the House of Representatives is clearly delineated in the *U.S. Constitution, Article I, Section 2, Clause 1* which states ...

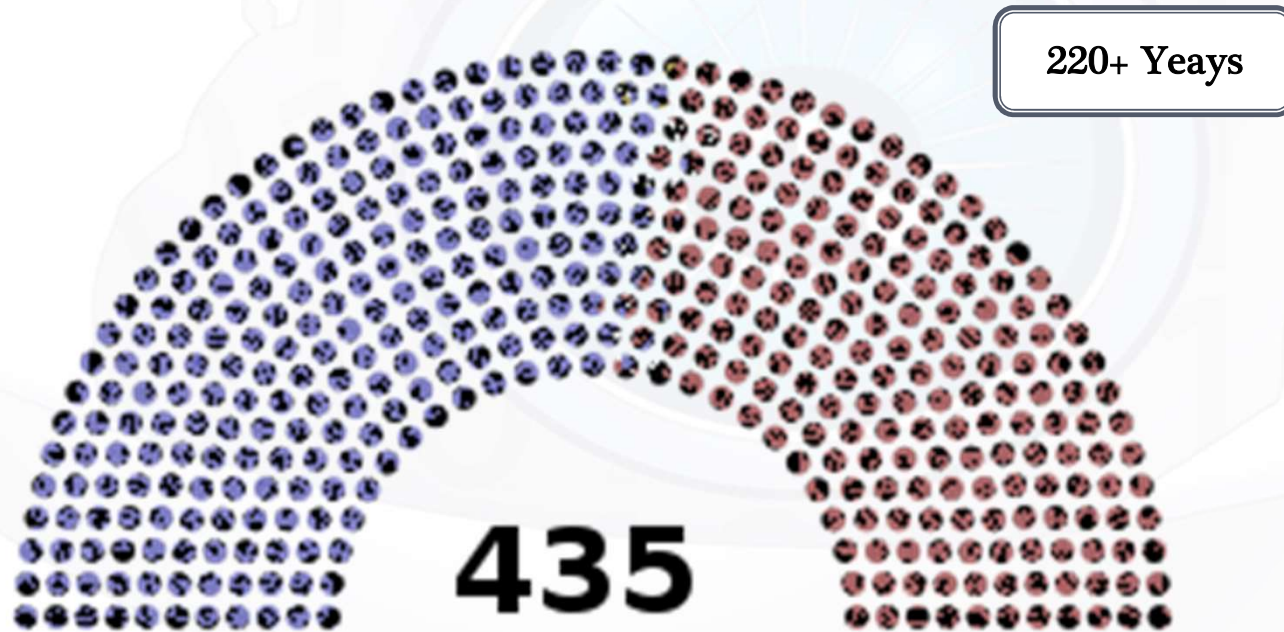
*“The House of Representatives shall be composed of members chosen every second year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.”*

See [Congressional Districting](#) | [Constitution Annotated](#) | [Congress.gov](#) | [Library of Congress](#)

# How many votes are required to move forward towards impeachment trial?

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In order for impeachment to proceed, the house voting on articles of impeachment simply requires a majority. Currently the house is composed of 435 individuals; therefore, in order for impeachment to move forward, 51% (Simple Majority of the Committee) is required.



# Who initiates the Impeachment Process?

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The Impeachment process can be initiated by ...

1

A Member of the House of Representatives

2

A House of Representative Member on the Floor

They can offer an impeachment resolution as a “Question of the Privileges of the House”. This triggers the house to consider a resolution, vote to table it, and refer it to the Judiciary Committee.



**NOTE:** Only the U.S. House of Representatives can make the final determination on the impeachment process. They have the final say as to whether the process moves forward to trial or is dismissed.



# What has triggered Impeachment Process into Motion?

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Historically speaking, there have been a number of events that have been accredited to initiating the impeachment process. This events have been identified as follows ...

- 1 Charges initiated by a petition from one or more citizens and referred to committee. *[3 Hinds §§ 2364, 2491, 2494]*
- 2 Charges transmitted in a message from the President. *[3 Hinds §§ 2294, 2319; 6 Cannon § 498]*
- 3 Charges transmitted from the legislature of a state. *[3 Hinds § 2469]*
- 4 Charges arising from a grand jury investigation. *[3 Hinds § 2488]*
- 5 Charges arising from an independent counsel investigation under section 595(c) of title 28, U.S. Code. Manual §603.



# What triggers the Impeachment Process?

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The Impeachment process may be initiated as a result of various actions and events, including but not limited to the following ...

- 1 Receipt and Referral of information from an outside source.
- 2 Investigations by congressional committees under their general authority.
- 3 The introduction of articles of impeachment in the form of a House resolution.
- 4 A Referral from the U.S. Supreme Court Judicial Conference *[28 U.S.C. Chapter 16 > Complaints Against Judges]*

# What formal stages of congressional action are taken?

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Regardless of what may instigate an inquiry into whether impeachment is warranted, the normal actions taken are ...

- 1 The impeachment inquiry is authorized through the adoption of a simple resolution (H.Res. \_\_ ) directing the Judiciary Committee to investigate an official. This may grant committees additional investigative authorities.
- 2 The Judiciary Committee conducts its investigation, prepares articles of impeachment, and reports them to the House.
- 3 The full House considers the articles of impeachment and, if they are adopted, appoints managers from the committee to present the articles in the Senate.

# Is there a difference between impeaching a President and a U.S. civil officer?

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First Presidential Impeachment-  
Andrew Johnson 1868

During a Presidential Impeachment, the trial is presided by the U.S. Supreme Court Chief Justice. This is clearly stated in *Article I, Section 3, Clause 6* which states:

*“When the President of the United States is tried, the Chief Justice shall preside.”*



During the Impeachment of a U.S. Civil Officer, the U.S. Supreme Court Chief Justice does not head the trial. Instead, the U.S. President and the Senate Committee are in charge.

# Initiation and Referral of Charges

- The house adopts a resolution calling for a committee investigation of charges against the officer in question.
- Resolutions to investigate a judge's conduct may also be reported by the House Judiciary Committee after a broader investigation into a related area.
- The assigned committee initiates an investigation to determine if there's sufficient evidence warranting impeachment and/or if the charges are to be dismissed. *[Impeachment- Selected Materials, Committee on the Judiciary, H.Doc. No. 93-7, Oct. 1973, p. 699.]*
- If impeachment is warranted, a resolution is reported to the House along with the articles of impeachment setting forth the grounds for the proposed action. *[§8, infra]*
- If the resolution is adopted, the House appoints managers to conduct the impeachment trial in the Senate. The Senate is informed of the facts by resolution. *[Manual §607; Deschler Ch 14 §9]*





# How Outside and Preliminary Investigations trigger the impeachment process?

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## Non-Judicial U.S. Officers

For non-judicial officers, there are times when material related to their conduct is referred to a committee prior to the adoption, or introduction of a resolution proposing an impeachment or impeachment investigation. Historically, this petitions are submitted by citizens. One way is for citizens to submit complaints to their state representatives, who would in turn present it to the House.

## Federal Judges

The impeachment of federal judges is bound to the *Judicial Conduct and Disability Act of 1980 [28 U.S.C., Chapter 16]* which establishes a process within the Judicial Branch for responding to complaints about judges. The investigations that make it to the Judicial Conference and which the conference believes warrant impeachment are forwarded to the House of Representatives along with a letter on how the Judicial Conference reached the decision for the Judiciary Committee. The last few impeachments were initiated by resolutions submitted after (or near the time of) the receipt of such a determination from the Judicial Conference.



# How many times has the Impeachment Process being used to remove U.S. Officials?

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According to the House of Representatives website, *the impeachment proceedings have been initiated more than sixty (60) times, but less than a third led to full impeachments*. In the process, only the following officers have been convicted:

## Three (3) Presidents

- 1) 1868 > Andrew Johnson
- 2) 1998 > William Jefferson (Bill) Clinton
- 3) 2019/ 2021 > Donald J. Trump

## Eight (8) Judges

Out of 15 Judges, only eight (8) were impeached. Only three (3) of them were barred by the Senate from ever holding future federal office.

## Two (2) Civil Officers

- 1) 1797 > U.S. Senator, William Blount of Tennessee
- 2) 1876 > Cabinet Secretary William Belknap

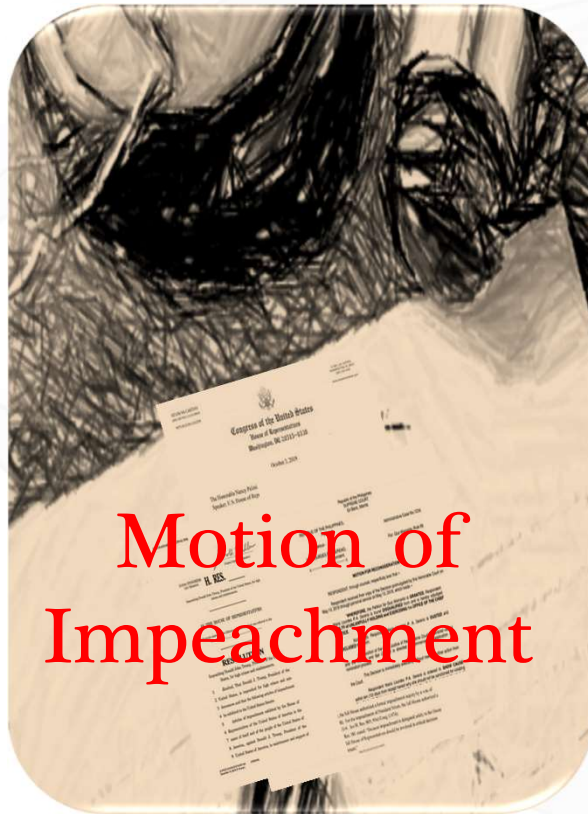
**NOTE:** Members of Congress and Senators are NOT considered “Civil Officers” under the Constitution, and they can only be removed from office by a two-thirds vote for expulsion by their respective chambers. [*Blount’s Impeachment Trial*]. In addition, based on *President Johnson’s trial* outcome, the President may remove appointees even if they required Senate confirmation to hold office.

See <https://crsreports.congress.gov/product/pdf/R/R45769>



# Motions and Debates

# What happens with Impeachment Motions?



- Unless the house provides a special order of business, propositions of impeachment are considered under the general rules of the House applicable to other simple house resolutions. [*Deschler Ch 14 § 8; 105-2, Dec. 18, 1998, pp 27846, 27847*]
- A resolution and articles under a unanimous-consent agreement fixing and controlling the time for debate may be considered by the house. [*Deschler Ch 14 §§ 8.1, 8.4; 105-2, Dec. 18, 1998, pp 27846, 27847*]
- Consideration of a resolution along with the articles of impeachment have been considered since 1912. [*Deschler Ch 14 § 8.2*]
- A motion for a previous questions and a motion to recommit are applicable, and a separate vote may be demanded on each article of impeachment contained in the resolution. [*Manual § 606a; Deschler Ch 14 §§ 8.8-8.10*]
- A resolution is subject to a motion to lay on the table before debate thereon. [*Deschler-Brown Ch 29 § 1.15*]
- When the House votes to order the previous question, it ends debate and any opportunity for amendment. A motion to recommit the resolution could be offered after the previous question was ordered, but it would not be debatable.



# Are Impeachment Propositions privilege?

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- A resolution impeaching an officer is highly privileged under the Constitution and therefore supersedes other pending business, including an election contest. *[Manual § 604; 3 Hinds §§ 2045-2048, 2581; 6 Cannon § 468]*
- They may be considered immediately in the House as a question of privilege; therefore, is not subject to the three-day layover requirement of rule XIII. *[Manual § 604]*
- When a resolution of impeachment is offered from the floor by a Member (other than the Majority or Minority Leader) is privileged but is subject to the notice requirement of rule IX. *[Manual §699]*
- A resolution does not lose its privilege from the fact that a similar proposition has been considered previously during the same session. *[3 Hinds § 2408]*
- A resolution offered from the floor simply proposing an investigation is not privileged, even though impeachment may be a possible consequence. *[3 Hinds §§ 2050, 2546; 6 Cannon § 468]*
- Although charges or resolutions of impeachment are privileged, they cannot be presented while another Member has the floor unless yielded to for that purpose. *[Deschler Ch 14 § 5.2]*

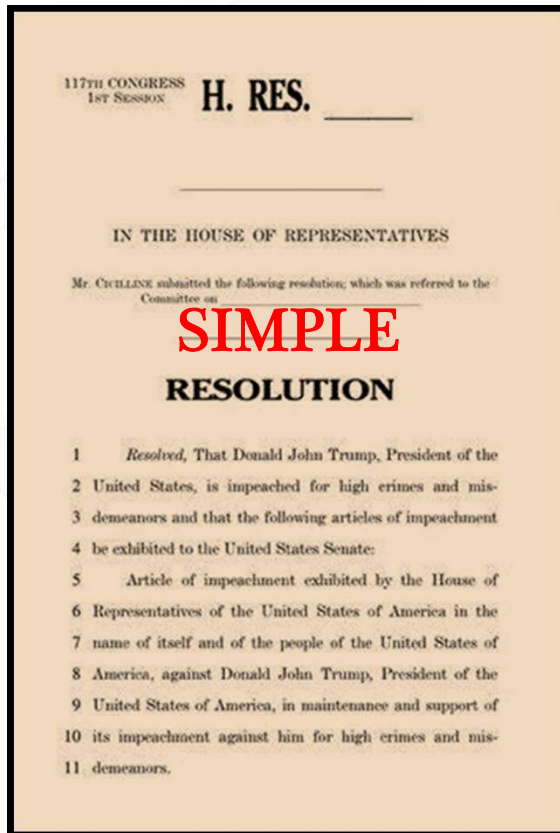


# Who may report privilege impeachment resolutions?

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- A committee to which resolutions of impeachment have been referred may report and call up as privileged resolutions incidental to the consideration of the impeachment question. [*Manual § 604; Deschler Ch 14 § 5.8*]
- If a resolution is offered on the floor by a Member on such Member's own initiative and not reported from a committee, it is subject to the notice requirement of rule IX. [*Manual § 699*]
- Historically speaking, propositions incidental to an ongoing impeachment proceeding taken up as privileged have included:
  - 1 Reports relating to the investigation [*3 Hinds § 2402; Deschler Ch 14 § 8.2*]
  - 2 Resolutions providing for the selection of managers [*6 Cannon § 517*]
  - 3 Propositions to abate an impeachment proceeding [*6 Cannon § 514*]
  - 4 Proposals to confer subpoena authority or to provide funding for the investigation [*Manual § 604; 6 Cannon § 549*]
  - 5 Resolutions authorizing depositions by committee counsel [*Manual § 604*]

# What type of document is required to initiate an impeachment?

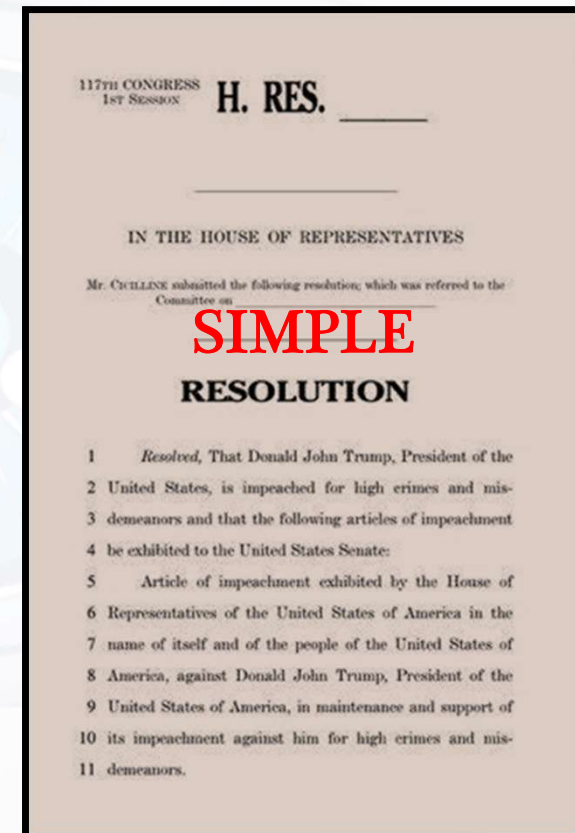


- An impeachment can be initiated using a *SIMPLE Resolution*. This type of legislation is used for internal chamber affairs and typically addresses matters concerning the operation of the House. Because it only impacts one chamber, they do not required action by the other chamber.
- A simple resolution affecting the house is designated "*H.Res. \_\_\_\_*" followed by its individual number. They are not presented to the President for action.
- They are NOT used to make law and accordingly do not require the approval of the other house of Congress.
- A Simple Resolution is use for adopting chamber rules, committee assignments, discipline of Members, expressions of sentiment, and other housekeeping purposes in each chamber.
- A member can drop the completed text into the "hopper", a wooden container that sits in the well of the House. Any Member of the House may introduce an impeachment resolution, as may Delegates and the Resident Commissioner from Puerto Rico.

# What type of information shall the Impeachment Resolution include?

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- The resolution may contain either articles of impeachment, which enumerate charges against the judge, or a general statement of impeachment, indicating only that the *judge, President or U.S. Officer* should be impeached for “high crimes and misdemeanors.”
- A resolution use to initiate an impeachment investigation may call for an inquiry into the behavior of a judge without delineating charges against the judge.
- The text of the resolution determines the House committee to which it will be referred. If it calls for an investigation into whether sufficient evidence exist to merit impeachment, it is referred to the House Committee on Rules. If it directly calls for impeachment of an individual it is referred to the House Committee on the Judiciary.





## What happens during the Debates?

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- A wide range of debate is permitted on impeachment proposals, and a Member may refer to the political, social, and even the familial background of the accused. [*Deschler Ch 14 § 8.5*]
- Members MUST abstain from using personal offensive language. [*Manual § 370*]
- Members must abstain from references to the personal conduct of sitting Members of the House or Senate. [*Manual § 370*]
- A member who calls a Resolution on the floor is recognized for one (1) hour or less; however, the chair also allows a numerical majority to vote to end debate and limit the opportunity for amendment. [*CRS Report 98-427, Considering Measures in the House Under the One-Hour Rule, by James V. Saturno*]



# Investigation Process



# What happens during an Investigation?

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- The House Judiciary Committee is charged with investigating any impeachment questions. The committee chair could undertake such an activity either on his or her own, in response to an introduced and referred resolution, or in response to a vote of the full House.
- **Under House Rule XI**, committees have the authority to subpoena persons or written records, conduct hearings, and incur expenses (including travel expenses) in connection with investigations. *[see CRS Report R45653, Congressional Subpoenas: Enforcing Executive Branch Compliance, by Todd Garvey]*
- **Rule XI, clause 2(h)(2)**, requires two committee members to take testimony or receive evidence. Since 116<sup>th</sup> Congress, the chairs of all standing committees (except the Rules Committee) as well as the Permanent Select Committee on Intelligence may order the taking of depositions by committee counsel. *[Congressional Record. See Section 103(a) of H.Res. 6, 116th Cong.; Section 3(b) of H.Res. 8, 117th Cong.; and Section 3(k) of H.Res. 5, 118th Cong.]*
- In modern practice, the federal official under investigation is generally allowed certain rights, including the right to be represented by counsel.



**INVESTIGATION**

# When can a Committee initiate the Investigations?

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- They can investigate federal officials without the full House adopting a resolution directing an impeachment inquiry.
- Since 1975, *The Rules of the House* have granted committees the power to subpoena witnesses and materials, administer oaths, and meet at any time within the United States.
- Historically speaking, the explicit authorization of directing an impeachment investigation are not always initiated by the House. In the past 75 years, the house has agreed to articles of impeachment eight (8) times. Only half were explicitly authorized. There have been times when the House has impeached officers without first approving an authorizing resolution.
- In some instances, the House is able to approve a resolution directing an impeachment inquiry for the purposes of granting authorities to the investigating committee beyond what is provided in the rules or structuring a multi-committee investigation.
- Committee impeachment investigations are governed by those portions of rule XI relating to committee investigative and hearing procedures, and by any rules and special procedures adopted by the House and by the committee for the inquiry. [*Manual § 605; Deschler Ch 14 § 6.3*]



# How do sub-committee Investigations function?

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There are times when the Judiciary Committee authorizes sub-committees to perform impeachment investigations. Subcommittees charged with conducting an impeachment investigation are generally larger and in some instances are tasked with conducting the investigation in its entirety for the full committee. In that case, such subcommittees are ...

1

Limited to the powers expressly authorized by the House or by the full committee. [*Deschler Ch 14 § 6.11; 105-2, H. Res. 581, Oct. 8, 1998, p 24679*]

2

Authorized to initiate an investigation of the sufficiency of grounds for impeachment and conferring subpoena power and authority to take testimony. [*See Deschler Ch 14 § 6*]

3

Normally required to submit recommendations to the full committee as to whether impeachment is warranted upon completing the investigation. [*See, e.g., Final Report of the Special Subcommittee on H. Res. 920 of the Committee on the Judiciary, 91-2, committee print, Sept. 17, 1970*]

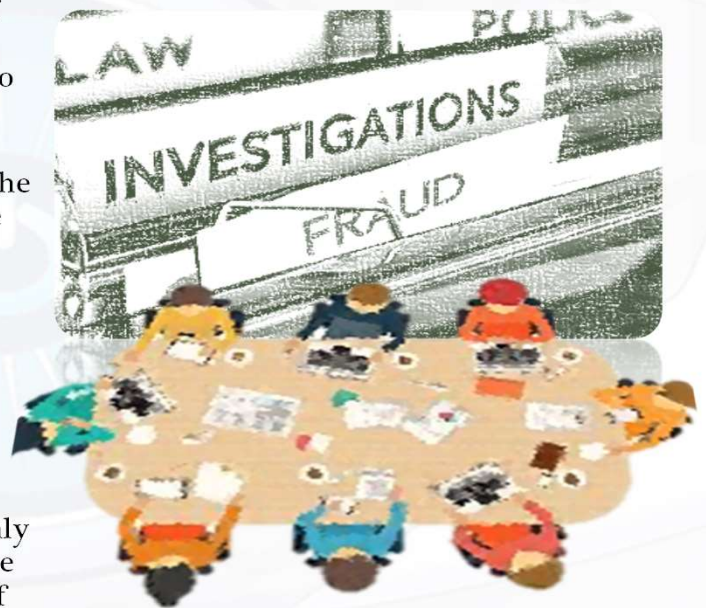
# How are Investigative and Adjudicatory subcommittees to be established and what rules are to be adopted?

## Per Rule XI, clause 3, §806a Investigative and Adjudicatory subcommittees

- **(m) (1)(A) DPg. 52** > An investigative subcommittee shall be composed of four (4) members (with equal representation from the majority and minority parties) whenever such a subcommittee is established pursuant to the rules of the committee.
- **(B)** an adjudicatory subcommittee shall be composed of the members of the committee who did not serve on the pertinent investigative subcommittee (with equal representation from the majority and minority parties) whenever such a subcommittee is established pursuant to the rules of the committee.

## Per Rule XI, clause 3, §806a Standard of Proof for adoption of statement of alleged violation

- **(n) DPg. 53** > The committee shall adopt rules to provide that an investigative subcommittee may adopt a statement of alleged violation only if it determines by an affirmative vote of a majority of the members of the subcommittee that there is substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities by a member, officer, or employee of the House of Representatives, has occurred.



See <https://www.govinfo.gov/content/pkg/HMAN-116/pdf/HMAN-116-pg557.pdf>

# What rules shall a committee apply to an Investigative Subcommittee?

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House committees are authorized to conduct investigations into virtually any matter under the committee's jurisdiction. They may establish an Investigative subcommittee to perform the impeachment investigation. To ensure the process of the subcommittee complies with the House Rules, the House committee shall ...

1

(o)(1) Adopt rules providing that an investigative subcommittee or an adjudicatory subcommittee may authorize and issue subpoenas only when authorized by an affirmative vote of a majority of the members of the subcommittee.

2

(o)(2) Adopt rules providing that an investigative subcommittee may, upon an affirmative vote of a majority of its members, expand the scope of its investigation when approved by an affirmative vote of a majority of the members of the committee.

3

(o)(3)(A) Adopt rules to provide that the investigative committee may, upon an affirmative vote of a majority of its members, amend its statement of alleged violation anytime before the statement of alleged violation is transmitted to the committee.

4

(o)(3)(B) Adopt rules to provide that if an investigation subcommittee mends its statement of alleged violation, the respondent shall be notified in writing and shall have thirty (30) calendar days from the date of that notification to file an answer to the amended statement of alleged violation.

See <https://www.govinfo.gov/content/pkg/HMAN-116/pdf/HMAN-116-pg557.pdf>

# Is there a Due process rights for those being impeached?

YES



- The Investigative Committee must provide a copy of the statement of alleged violation it intends to adopt together with all evidence it intends to use against the individual undergoing the impeachment process to prove those charges which it intends to adopt, including documentary evidence, witness testimony, memoranda of witness interviews, and physical evidence, unless the subcommittee by an affirmative vote of a majority of its members decides to withhold certain evidence in order to protect a witness; but if such evidence is withheld, the subcommittee shall inform the respondent that evidence is being withheld and of the count to which such evidence relates. [(p)(1) pg. 55]
- The notification shall be sent not less than ten (10) calendar days before a scheduled vote by an investigative sub-committee on a statement of alleged violation.
- The respondent or his/her counsel SHALL NOT, directly or indirectly, contact the subcommittee or any members thereof except for the sole purpose of settlement discussions where counsel for the respondent and the subcommittee are present. [(p)(2)] pg. 55]
- The Committee or sub-committee must immediately forward any new evidence that emerges after the issuance of a statement of alleged violation to the respondent and their counsel after each agrees, in writing, that no document, information, or other materials.

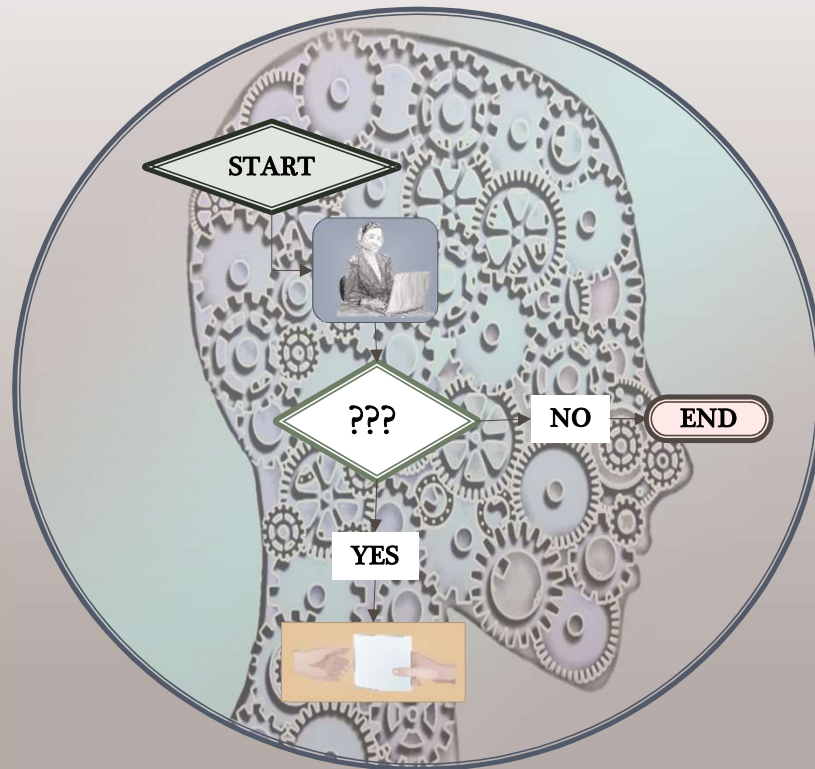


## What steps are taken by the Committee to ensure confidentiality of material; Access during the Impeachment Process?

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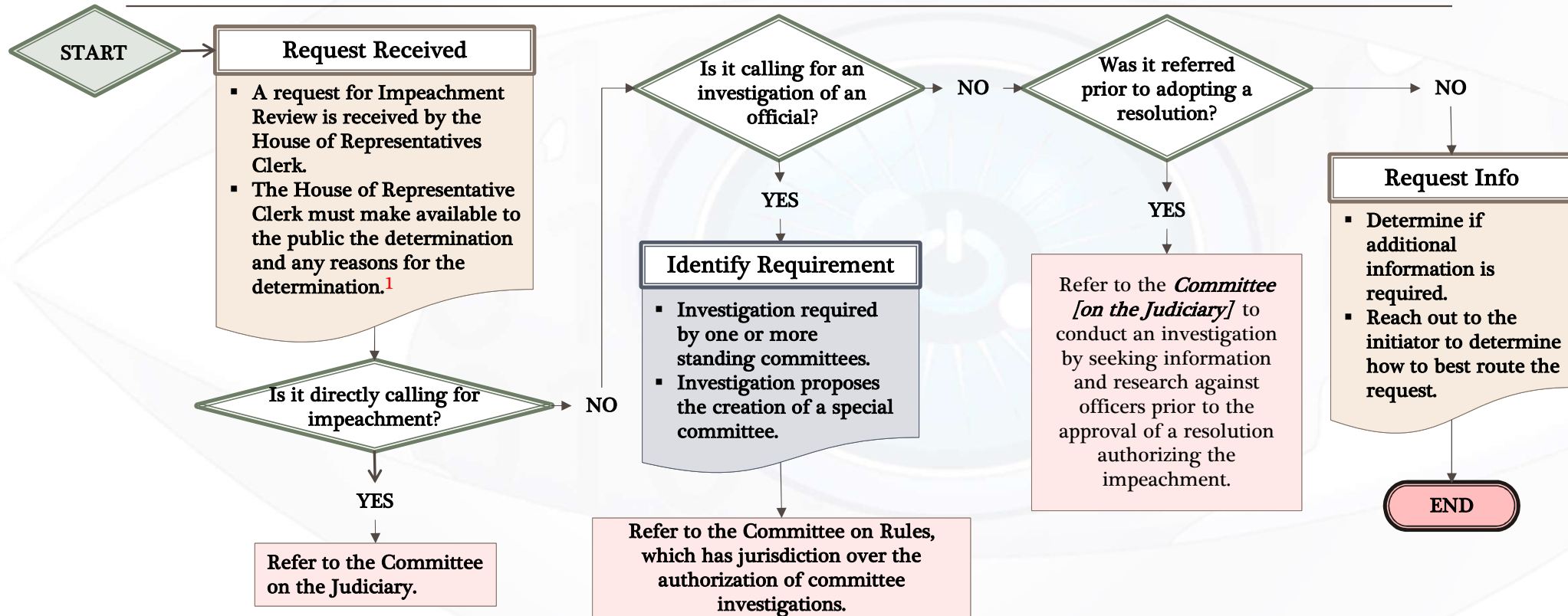
- The House and Committee on the Judiciary may adopt procedures to ensure the confidentiality of impeachment inquiry materials and to limit access to such materials. [*Deschler Ch 14 §§ 6.9, 15.3; 105-2, H. Res. 525, Sept. 11, 1998, pp 20020, 20021*]
- When a Federal court subpoenas certain evidence gathered by the committee in an impeachment inquiry, the House may adopt a resolution granting such limited access to the evidence as will not violate the privileges of the House or its sole power of impeachment under the Constitution. [*Deschler Ch 14 § 6.13*]





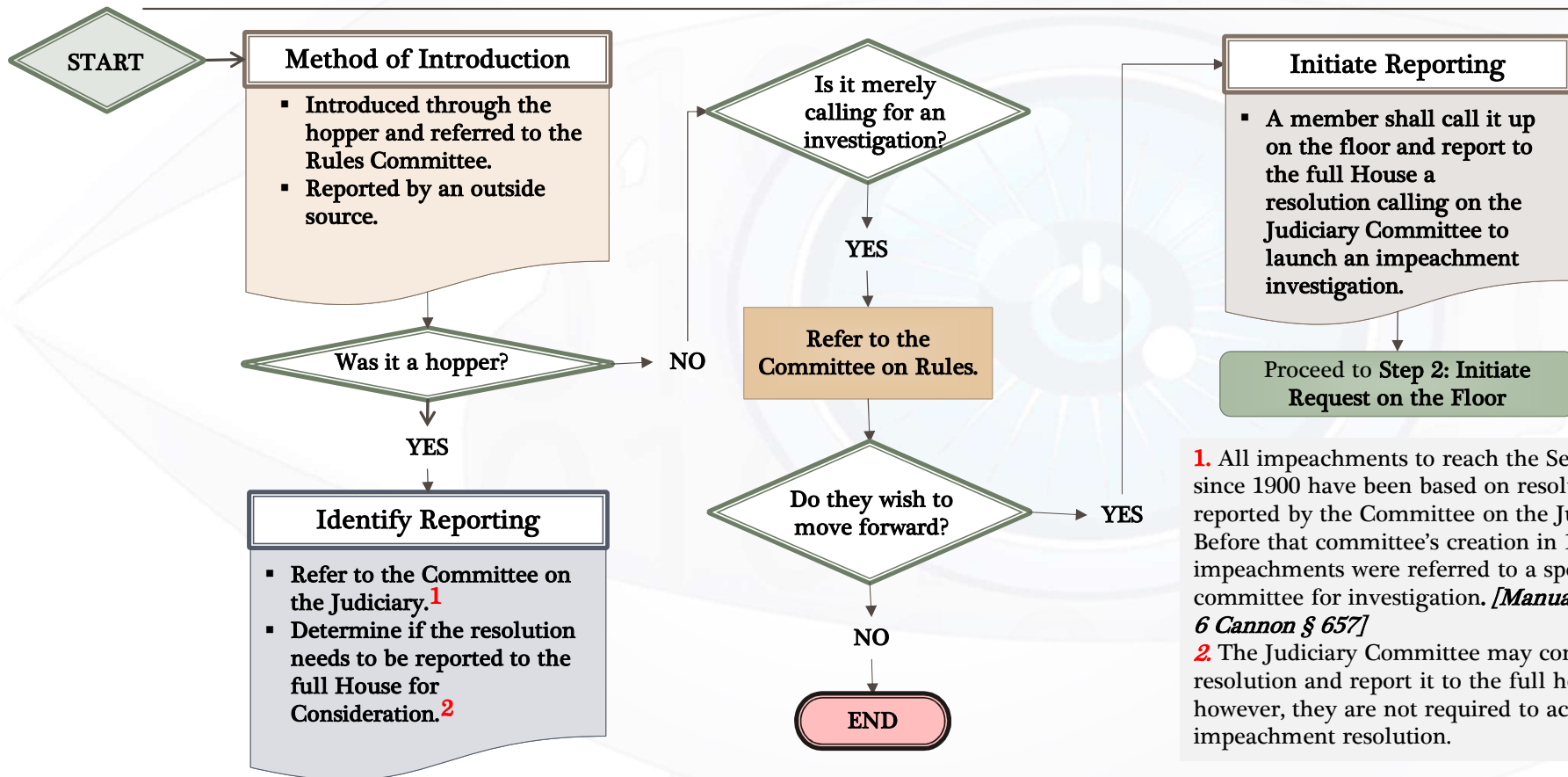
# Visual Process Breakdown

# Step 1: Clerk Actions upon request received



<sup>1</sup>. Applicable to Federal Judges. See *28 U.S.C. §355 Action by Judicial Conference (b)(1)*

# Step 1: Committee > Determine Source of Request

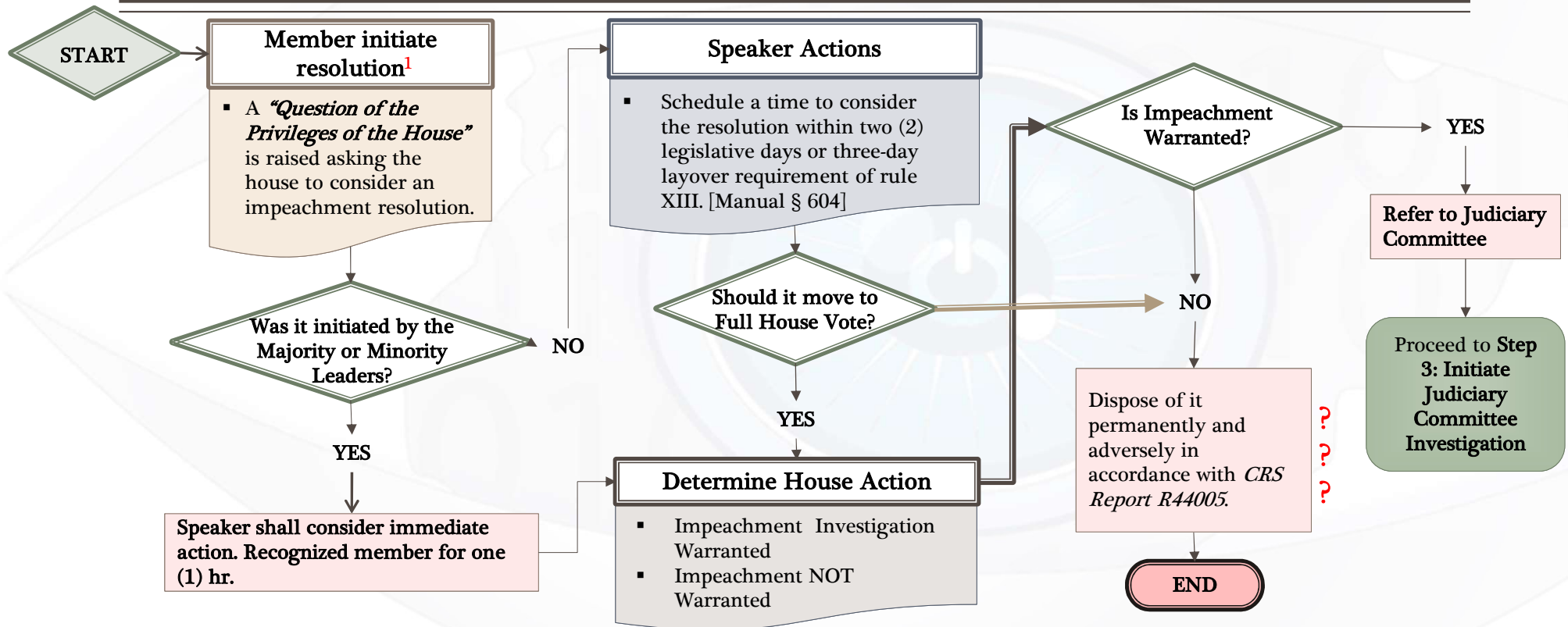


<sup>1</sup>. All impeachments to reach the Senate since 1900 have been based on resolutions reported by the Committee on the Judiciary. Before that committee's creation in 1813, impeachments were referred to a special committee for investigation. [*Manual § 603; 6 Cannon § 657*]

<sup>2</sup>. The Judiciary Committee may consider the resolution and report it to the full house; however, they are not required to act on an impeachment resolution.

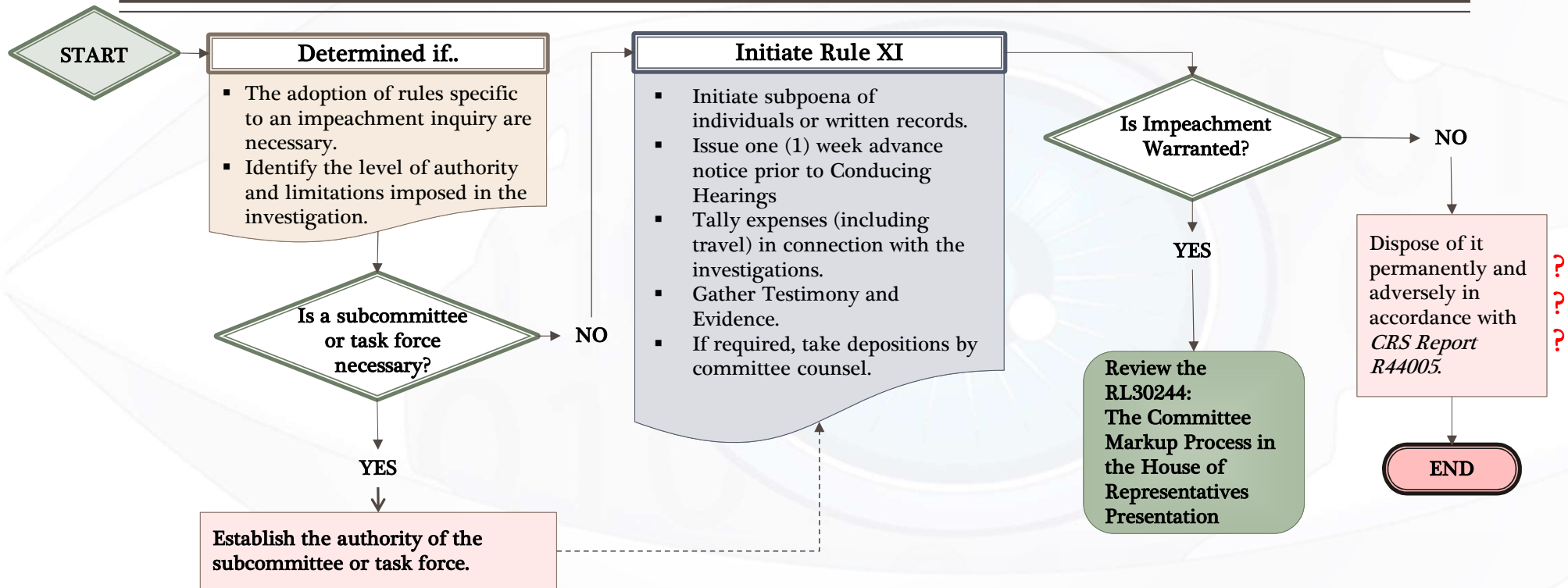


## Step 2: Initiate Request by Member on the Floor



<sup>1</sup>. The majority and the minority leaders do not need to give notice; if either leader raises a qualifying question of privileges of the House on the floor, it is considered immediately. For more information on this process, see CRS Report R44005, Questions of the Privileges of the House: An Analysis, by Megan S. Lynch.

## Step 3: Initiate Judiciary Committee Investigation



**Note:** In cases in which an official has been impeached, the House has nearly always chosen to conduct an investigation first.



# Reporting to the Full House

# What steps shall the Committee take?

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- Upon conclusion of the investigation, if a majority determines that an impeachment should proceed, the committee holds a business meeting, referred to as a “MARKUP”, for Members to review the language proposed to be reported to the Full House.
- A draft impeachment resolution with accompanying articles of impeachment or a resolution introduced and referred to the committee with articles of impeachment is often considered. *[Deschler's Precedents, Ch. 14, §7.1.]*
- Unless otherwise noted, the committee then follows the regular House and committee rules during the conduct of the markup process.
- After the Markup process, the resolution is put to a vote and if the simple majority agrees, the committee reports the resolution to the full House.





# What happens during the “Markup” Process?

- The articles of impeachment are in the form of a simple resolution (H.Res.\_\_\_\_).
- The procedures for considering and reporting an impeachment resolution are the same as those used for other legislation. They are documented by the *Congressional Research Service as RL30244*.
- Notice must generally be given of the proposed meeting, and the text of the articles of impeachment must generally be available twenty-four (24) hours in advance of the meeting, although House Rule XI, clause 2 (g)(3)(B), provides some exceptions to the requirements.
- Members are given the opportunity to offer amendments to the articles of impeachment.
- During the process members will be given five (5) minutes to debate.
- After all items are debated, a majority of the committee must be physically present to vote on the articles of impeachment.



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## The Committee Markup Process in the House of Representatives

Updated February 8, 2023

<https://crsreports.congress.gov/product/details?prodcode=RL30244>

# What typical recommendations can the committee report?

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The committee can provide one of the following recommendations to the House:

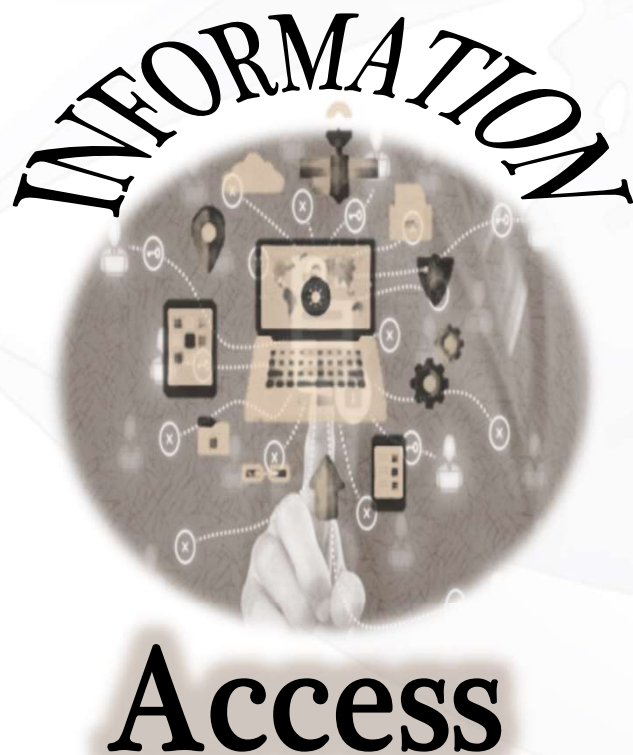
- 1 Report that impeachment is not warranted. [*Deschler's Precedents, Ch. 14, §7.10*]
- 2 Clear the Judge of ALL charges. [*Hinds' Precedents, Vol. III, §§2319-2341*]
- 3 State that although the individual may have acted inappropriately or irresponsibly, the conduct was ultimately determined to fall short of the standard for impeachment. [*5 Hinds' Precedents, Vol. III, §2489; Annals of Congress, 15th Cong., 1st sess., vol. 31, pp. 711-712*]
- 4 Abstain from recommending impeachment IF the judge has resigned during the course of the investigation. [*Clarence Cannon, Cannon's Precedents of the House of Representatives of the United States (Washington: GPO, 1936), Vol. VI, §527. (Hereinafter Cannon's Precedents)*]

# House Floor Consideration



# Do Members have access to Committee Information Prior to Full House Consideration?

YES



- Under House Rule XI, clause 2(e) committee records are the property of the House and therefore all members have access to the information; however, the committee can place reasonable restrictions on where, when, and how Members may access the records.
- In some instances, access to committee investigatory material might be limited while the committee determines if it qualifies as a committee record under House Rule XI which may deem its release prohibited pursuant to other House rules. In addition, the committee might take actions to protect the confidentiality of investigative materials.
- Under House Rule XI, clause 2(g)(1) a committee can operate in executive session by majority vote, a quorum being present, to restrict attendance at a business session to only committee members or others authorized by the committee. Clause 2(g)(1) of the rule specifies that entering into executive session is warranted when “disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, would tend to defame, degrade, or incriminate any person, or otherwise would violate a law or rule of the House.”
- A committee can receive evidence or testimony as if in executive session, which under Rule XI, clause 2(k)(7), may only be released through authorization by the committee.
- Per House Manual §796, the copying, releasing, or taking notes on materials received in executive session is strictly prohibited without permission of the committee.



# What takes place during the House Floor Consideration Process?

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- Since Impeachment resolutions are highly privileged under House rules, it can come up on the House floor the same day the committee reports it. [*Deschler's Precedents, Ch. 14, §8.2*]
- The Member calling up the Impeachment resolution is allowed to initiate the debate on the House floor under the **one (1) hour rule**. During this time, the Member recognized may yield thirty (30) minutes of that time to the other party for debate only. Once the time is over, a Member moves to the previous question, and IF that was adopted, further considerations would be ended. Members would then vote on the issue. [*Ibid., Ch. 14, §8. For more information on the hour rule, see CRS Report 98-427, Considering Measures in the House Under the One-Hour Rule, by James V. Saturno*]
- If a member requires more than *one (1) hour*, the process may be modified by the use of a unanimous consent agreement among all Members of the House, which in turn can modify the hour rule debate by adding more debate time for Members. [*Ibid., Ch. 14, §8.1*]
- An impeachment debate could also come to the House floor through the use of a special rule reported by the House Rules Committee. The one (1) hour rule is applied and IF the house adopts the special rule by majority vote, the resolution is considered by the House. Unlike the initial rule, which requires unanimous consent agreements from all House members, the special rule would go into effect if a majority of the House voted for it.
- The use of language that is personally offensive towards the officer, including accusations of committing a crime or allusions to unethical behavior is prohibited. Remarks during the debate shall only refer to the alleged misconduct that is under consideration.



# What is considered under the One (1) Hour Rule?

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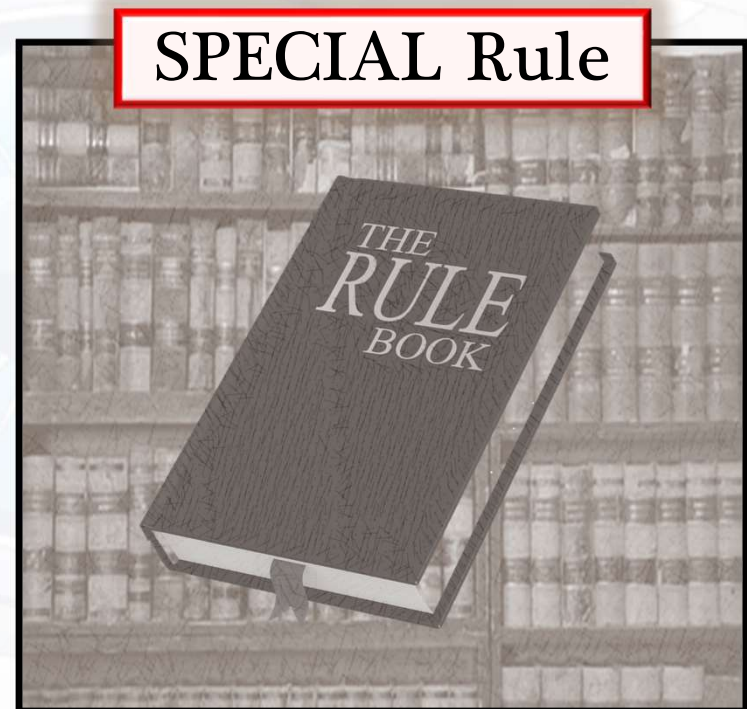


- Articles of impeachment reported by committee are privileged for immediate consideration on the House floor. The chair of the committee (or a designee) could call up the resolution containing the article at any time other business is not pending, and the resolution would be considered immediately under the hour rule.
- During this process, a majority of the House controls the length of debate and can prevent amendment. After some debate, the majority could vote to order the previous question, which brings the House to an immediate vote on the main question: whether to agree to the impeachment resolution.
- A motion to recommit the impeachment resolution would be in order after the previous questions was ordered but before the vote on the resolution. This motion, however, would not be subject to debate.
- In the last two impeachments, members can demand a division of the resolution, which allows the House to vote separately on each article of impeachment. [See consideration of H.Res. 1031 (111th Cong.), "Impeaching Judge G. Thomas Porteous Jr.," *Congressional Record*, daily edition, March 11, 2010, pp. H1327-1337 and of H.Res. 520 (111th Cong.), "Impeaching Judge Samuel B. Kent," *Congressional Record*, daily edition (June 19, 2009), pp. H7053-H7067.]

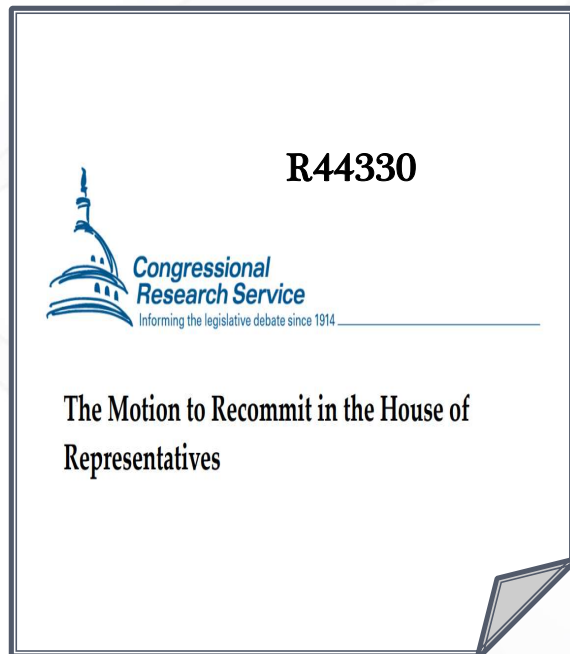
# How does Impeachment functions under the Terms of a Special Rule?

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- Instead of leveraging the resolution under the hour rule, the House could consider an impeachment resolution under the terms of a resolution reported by the Rules Committee (a special rule).
- First, the House debates the Rules Committee-reported resolution setting the terms for consideration of the impeachment resolution.
- The rule from the Rules Committee can provide for a particular length of debate, structure any amendment process, and potentially structure voting to allow each article to be voted on separately. It could preclude motions that would otherwise be in order under the hour rule, such as a motion to table the resolution. Once the House agrees on the rules, the impeachment resolution is considered under the terms established by such rule.
- The last two times the House impeached an officer, it considered the articles of impeachment under the terms of a special rule.



# What happens when someone is opposed to the Impeachment?



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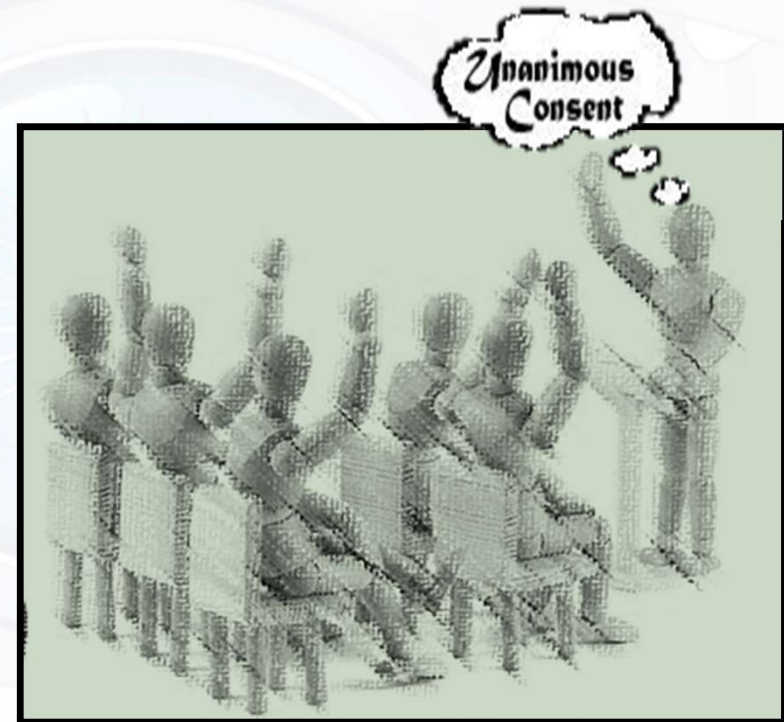
- After debate is largely complete and the previous question has been ordered on the impeachment resolution and the articles of impeachment, but before the final vote or votes on the question, those opposed to the impeachment have the opportunity to offer a motion to recommit, with or without instructions.
  - 1) A motion to recommit without instructions is an effort to send the resolution back to the committee of jurisdiction, and with no instructions concerning further consideration, it is, in effect, an attempt to end the process.
  - 2) A motion to recommit with instructions is a last attempt to amend or change the language in the impeachment resolution or the articles of impeachment.
- As in regular House procedures, any instructions in a motion to recommit offered to an impeachment resolution or the accompanying articles **MUST** be germane to the resolution, meaning they must be on the same subject matter.
- A motion to recommit with instructions that the impeachment resolution be re-written to censure the individual in question has been ruled out of order, because censure is not considered germane to impeachment. *[House Practice, p. 602. For more on motions to recommit, see CRS Report RL34757, The Motion to Recommit in the House of Representatives: Effects and Recent Trends, by Megan Suzanne Lynch]*
- After the motion to recommit is offered and disposed of, it is then in order to vote on the question of impeachment. In either scenario, each article of impeachment in the resolution can be voted on separately.



# How does Unanimous Consent functions?

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- The House can take up a resolution by unanimous consent or call it up as a question of privilege and change the terms of its consideration by unanimous consent.
- A unanimous consent agreement can structure consideration just like a special rule, but it is agreed to without a vote and usually with little or no floor debate.
- The difference between a unanimous consent agreement and a special rule is that ALL representatives must support the unanimous consent agreement, while a special rule only requires a simple majority.
- The terms for consideration established through a special rule can also be established through unanimous consent.





# When can an Impeachment Resolution be offered on the Floor as a Question of the Privilege of the House?



**1.** The Majority and Minority leader DO NOT need to give notice; their question will be considered immediately.

- ANY member of the House can offer on the floor a resolution containing articles of impeachment as a “question of the privileges of the House.”. The Question is considered under the hour rule.
- The House may or may not take action on a direct vote on the articles of impeachment or even debate the articles and instead refer it to the Judiciary Committee. Often, the House votes to dispose of them by referring them to committee or by tabling them.
- In order for a member to raise the question, he/she must take the following steps:

**1** Draft a resolution containing articles of impeachment.

**2** Consult with the Office of the house Parliamentarian to ensure that the resolution qualifies as a question of the privileges of the House.

**3** On the House Floor, rise to give notice of intent to offer a question of the privileges of the House and reads the draft resolution in full on the floor when recognized.<sup>1</sup> The Speaker is required to schedule consideration of the question within two legislative days.

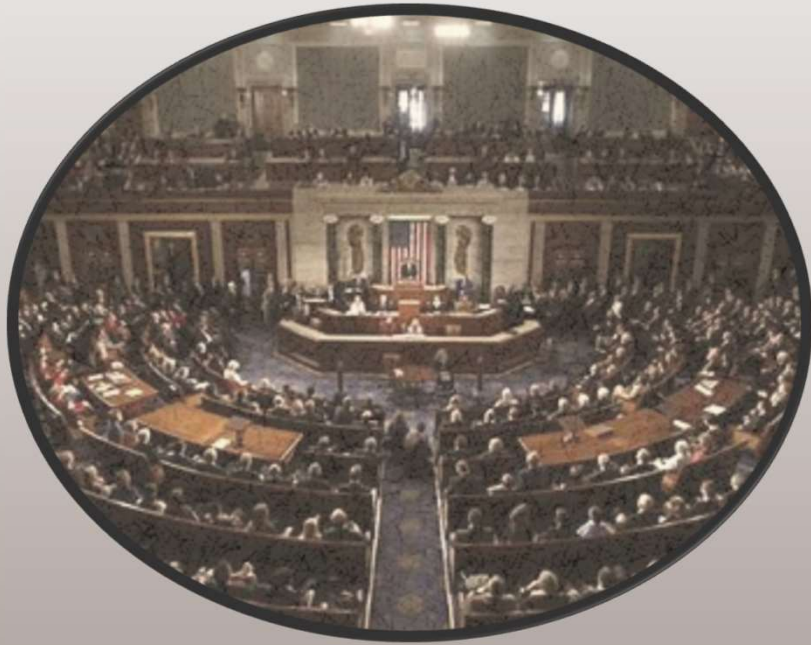
**4** At a time scheduled by the Speaker, rise to offer the resolution as a question of the Privilege of the House; the speaker will then rule as to whether it constitutes a proper question and if it does, the resolution will be assigned a number and will be pending before the House for consideration.

# What leads to the final impeachment trial?

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- After the committee(s) examined the evidence and believe impeachment is warranted, they draft the Articles of Impeachment.
- The committee's recommendations as reported in the resolution is not binding on the House until they are adopted.
- The resolution is introduced for voting. A majority vote in the house is required in order for the impeachment process to move forward to trial.
- Upon adopting the articles of impeachment, the House appoints managers to present the articles before the Senate, notifying the Senate of the Adoption of articles and appointment of managers, and authorizing the managers to prepare for and to conduct the trial in the Senate. [*Manual § 607; 6 Cannon §§ 499, 500, 514, 517*]
- Privilege incidental resolutions may be merged into a single indivisible privileged resolution. [*Manual § 607*]





# House Responsibilities in the Senate Trial

# What steps take place after an impeachment resolution is adopted?

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If at least one (1) article is agreed to, the House, by resolution initiates the following...

1 Appoints managers to present the case for impeachment to the Senate.

2 Sends a notice to the Senate that they have adopted impeachment article(s).<sup>1</sup>

3 Appoints managers to try the case in the Senate.<sup>2</sup>

4 Grants the managers the authority and funds to carry out their duties.

<sup>1</sup>. The last two impeachments, the House did not send a formal notice to the Senate than an impeachment has occurred.

<sup>2</sup>. Historically, the House has also selected managers by election in the House or appointment by the Speaker.

# What are the responsibilities of the House Managers?

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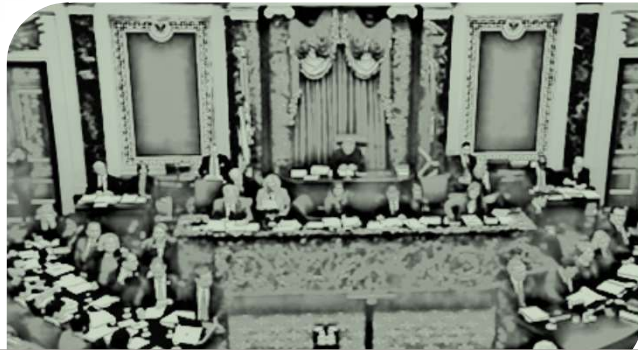
- House managers are charged with prosecuting the House's case against the respondent during the impeachment trial in the Senate.
- The number of managers appointed by the House ranges from three to nine across the various impeachments held by the House.
- Their main responsibility is to impeach the respondent orally before the Senate and demand that the Senate order the individual to appear and face the charges against them. [*Grimes, The Role of the United States House of Representatives In Proceedings to Impeach Federal Judges, p. 64*]
- They are also responsible for filing a replication, which is the House's response to the respondent's answer to the articles of impeachment.
- In modern times, House managers have been substantially assisted by outside counsel- this are outside attorneys specifically hired to help the committee with the impeachment investigation. They are neither Members of Congress nor permanent staff. Outside counsel have been tasked with the litigation work, including the conduct of depositions, the drafting of briefs and motions (subject to the approval of managers), the interviewing of witnesses and, in some cases, even the cross examination of witnesses during the trial itself.





# What steps the Senate takes upon receiving an Impeachment Resolution from the House?

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## Impeachment Trial



- Upon receipt of resolution(s), the Senate informs the House when the managers can present the articles of impeachment to the Senate.
- At the appointed time, the House managers read the resolution authorizing their appointment and the resolution containing the articles of Impeachment on the Senate floor and then leave until the Senate invites them back for the trial.
- At the trial, the House managers, who might be assisted by outside counsel, present evidence against the accused and could be expected to respond to the defense presented by the accused (or his/her counsel) or to questions submitted in writing by Senators.
- The Senate follows their own procedures to continue the impeachment process. [See The Impeachment Process in Senate Presentation]



# RESOURCES

# This process also requires the following ...

**RL30244:  
THE COMMITTEE  
MARKUP PROCESS IN  
THE HOUSE OF  
REPRESENTATIVES**

Overview





<https://crsreports.congress.gov/product/details?prodcode=RL30244>

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**CSR R44005:  
QUESTIONS OF THE  
PRIVILEGES OF THE  
HOUSE: AN ANALYSIS**

Overview



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In PROGRESS

**IMPEACHMENT  
PROCESS**

This presentation analyses the current process leverage by the U.S. Government to initiate the impeachment of U.S. Civil Officers and federal judges Since 1804.



See CRS Report: Impeachment and the Constitution [December 6, 2023 : R46013 (congress.gov)] > <https://crsreports.congress.gov/product/pdf/R/R46013>

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53

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- CRS R45769: The Impeachment Process in the House of Representatives > <https://crsreports.congress.gov/product/details?prodcode=R45769>
- 115<sup>th</sup> Congress, 2d Session.. House Document No. 115-177: Constitution Jefferson's Manual and Rules of the House of Representatives of the United States > <https://www.govinfo.gov/content/pkg/HMAN-116/pdf/HMAN-116.pdf>
- CRS 98-411: Questions of the Privileges in the House> <https://crsreports.congress.gov/product/pdf/RS/98-411>
- CRS R44005: Question of the Privileges of the House: An Analysis > <https://crsreports.congress.gov/product/pdf/RS/98-411>
- House Practice: A Guide to the Rules, Precedents and Procedures of the House: Chapter 27: Impeachment > <https://www.govinfo.gov/app/details/GPO-HPRACTICE-115/GPO-HPRACTICE-115-28>
- Library Of Congress Bills and Resolutions Definition > <https://guides.loc.gov/federal-statutes/bills-resolutions>
- House Bills and Resolutions Definition > <https://www.house.gov/the-house-explained/the-legislative-process/bills-resolutions>
- CRS R46603: Bills, Resolutions, Nominations, and Treaties: Characteristics and Example of Use > <https://crsreports.congress.gov/product/pdf/R/R46603>