

116TH CONGRESS
2^D SESSION

S. RES. _____

Amending the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials to ensure adequate access to witnesses and documents in impeachment trials of a President or Vice President, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MERKLEY (for himself and Mr. VAN HOLLEN) submitted the following resolution; which was referred to the Committee on _____

RESOLUTION

Amending the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials to ensure adequate access to witnesses and documents in impeachment trials of a President or Vice President, and for other purposes.

1 *Resolved,*

2 **SECTION 1. WITNESSES AND DOCUMENTS IN IMPEACH-**
3 **MENT TRIALS OF A PRESIDENT OR VICE**
4 **PRESIDENT.**

5 (a) IN GENERAL.—The Rules of Procedure and Prac-
6 tice in the Senate When Sitting on Impeachment Trials
7 are amended by adding at the end the following:

1 “XXVII. In an impeachment trial of the President
2 or the Vice President, upon whom the powers and duties
3 of the Office of President shall have devolved, each party
4 may move to issue 1 or more subpoenas to obtain testi-
5 mony from witnesses. If the Presiding Officer determines
6 the testimony of a witness for whom a subpoena is sought
7 is material and relevant to the impeachment trial and not
8 redundant, the Presiding Officer, through the Secretary
9 of the Senate, shall issue a subpoena for the taking of
10 testimony of the witness. A Senator may raise a point of
11 order that a subpoena for the taking of testimony of a
12 witness should not be issued. If a point of order is raised,
13 the Presiding Officer shall submit the point of order to
14 a vote of the Senate without debate. A vote under this
15 Rule shall be taken in accordance with the Standing Rules
16 of the Senate.

17 “XXVIII. In an impeachment trial of the President
18 or the Vice President, upon whom the powers and duties
19 of the Office of President shall have devolved, each party
20 may move to issue 1 or more subpoenas to obtain docu-
21 ments. If the Presiding Officer determines the documents
22 for which a subpoena is sought are material and relevant
23 to the impeachment trial and not redundant, the Presiding
24 Officer, through the Secretary of the Senate, shall issue
25 a subpoena requiring production of the documents. A Sen-

1 ator may raise a point of order that a subpoena requiring
2 production of the documents should not be issued. If a
3 point of order is raised, the Presiding Officer shall submit
4 the point of order to a vote of the Senate without debate.
5 A vote under this Rule shall be taken in accordance with
6 the Standing Rules of the Senate.

7 “XXIX. It shall not be in order to consider a resolu-
8 tion or motion establishing procedures for an impeach-
9 ment trial, or an amendment thereto, that would modify,
10 supersede, waive, or be inconsistent with any portion of
11 Rule VII, XXVII, or XXVIII.”

12 (b) EVIDENTIARY QUESTIONS.—Rule VII of the
13 Rules of Procedure and Practice in the Senate When Sit-
14 ting on Impeachment Trials is amended—

15 (1) in the second sentence—

16 (A) by striking “may rule” and inserting
17 “shall rule”; and

18 (B) by inserting “, except in the impeach-
19 ment trial of the President or Vice President,
20 upon whom the powers and duties of the Office
21 of President shall have devolved,” before “he
22 may at his option”; and

23 (2) by adding at the end the following: “In an
24 impeachment trial of the President or the Vice
25 President, upon whom the powers and the duties of

1 the office of President shall have devolved, the Pre-
2 siding Officer shall rule on any assertion of privilege
3 or immunity in connection with the production of
4 testimony, documents, or other evidence.”.