

**HOUSE RULES RESOLUTION -
IMPEACHMENT PROCESS**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Greg J. Curtis

This resolution modifies House Rules by establishing a process to address the impeachment of Judge Ray M. Harding, Jr. This resolution provides grounds for impeachment, outlines a process for taking evidence and evaluating that evidence, provides for the appointment and responsibilities of impeachment managers, and outlines the process for preparing articles of impeachment. This resolution establishes voting requirements for the committee and the House of Representatives. This resolution establishes requirements for notifying the Senate about House action on impeachments and defines the role of House impeachment managers and special counsel in the Senate trial on impeachment. This resolution takes effect immediately. This resolution provides a repeal date of December 1, 2003.

This resolution affects legislative rules as follows:

ENACTS:

HR-37.11

HR-37.12

HR-37.13

HR-37.14

HR-37.15

HR-37.16

HR-37.17

HR-37.18

Be it resolved by the House of Representatives of the state of Utah:

Section 1. **HR-37.11** is enacted to read:

HR-37.11. Grounds for Impeachment.

The House may impeach a state or judicial officer for high crimes, misdemeanors, or

malfeasance in office, which include:

- (1) personal misconduct in the discharge of the officer's official duties;
- (2) neglect in the discharge of the officer's official duties;
- (3) usurpation of power in the discharge of the officer's official duties;
- (4) habitual disregard for the public interest in the discharge of the officer's official

duties;

- (5) the commission of an indictable criminal offense;
- (6) an intentional act or omission relating to the officer's official duties involving a

substantial breach of trust;

(7) conduct amounting to a substantial breach of the trust imposed upon the official by the nature of his office that is of such a character as to offend against commonly accepted standards of honest and morality; or

(8) any other meanings of "high crimes," "misdemeanors," or "malfeasance in office" that have existed historically and at common law.

Section 2. **HR-37.12** is enacted to read:

HR-37.12. Beginning Impeachment Proceedings.

The House may begin impeachment proceedings against a state or judicial officer by passing a resolution beginning an impeachment inquiry.

Section 3. **HR-37.13** is enacted to read:

HR-37.13. Powers of Speaker; Reference to Committee.

If the impeachment resolution passes, the Speaker of the House shall:

- (1) refer the matter to the House Judiciary Committee to begin an impeachment inquiry;

and

(2) as necessary, hire investigators, special impeachment counsel, court reporters, and other necessary staff to assist the committee in its inquiry.

Section 4. **HR-37.14** is enacted to read:

HR-37.14. Committee Meeting; Record; Evidence.

- (1) The chair of the House Judiciary Committee may:

(a) direct its impeachment staff to conduct an investigation and collect evidence before convening a meeting; or

(b) convene an organizational meeting to orient committee members about committee requirements and procedures and to give instructions to impeachment staff.

(2) The chair of the House Judiciary Committee shall ensure that each meeting is recorded.

(3) (a) When not in conflict with these rules or House Rules, the Utah Rules of Evidence shall serve as a guide.

(b) The chair may allow admission of reasonably reliable evidence that varies from the Utah Rules of Evidence whenever the interests of justice require.

(c) The chair's determination of admissibility is final and may only be overruled by a majority vote of the committee.

(4) When investigating the conduct of a state or judicial officer who is subject to an impeachment inquiry, the committee may receive:

(a) evidence given by witnesses produced and sworn before them;

(b) documentary evidence;

(c) the written deposition of a witness; or

(d) other reasonably reliable evidence authorized under Subsection (3).

(5) (a) Any witness testifying before the committee may have his counsel present.

(b) When the committee seeks factual testimony within the personal knowledge of the witness, the testimony and answers must be given by the witness himself and not suggested to the witness by counsel.

(c) Counsel for a witness may advise the witness during the witness's testimony only when specifically requested to do so by the witness.

(d) The participation of counsel at a hearing and while a witness is testifying is limited to advising the witness of his legal rights.

(e) Counsel may not address the committee, ask questions of any witness, or engage in oral arguments with the committee.

(f) Counsel's failure to abide by these rules is grounds for counsel's exclusion from the inquiry.

(6) After convening, the chair shall proceed in the following order:

(a) special impeachment counsel shall call each witness and begin the examination of the witness; and

(b) after special impeachment counsel has finished, any member of the committee who wants to examine the witness may do so.

(7) (a) If any committee member wants the committee to receive additional testimony or other evidence not presented, the committee member shall submit a written request to the chair identifying the area of inquiry, the witness that the member wants to call, and the evidence that the member wants the committee to review.

(b) Unless the chair determines that the additional testimony or other evidence unreasonably delays or obstructs the committee's investigation, the chair shall allow the member to receive the additional testimony or other evidence identified by the committee member if the new area of inquiry is reasonably related to the matters under consideration by the committee.

(8) (a) A majority of the members of the committee may compel obedience to the requirements of the committee by declaring in contempt of the Legislature any person who:

(i) fails to comply with a subpoena or a subpoena duces tecum;

(ii) refuses to answer a question relevant to the investigation which does not infringe on his constitutional rights; or

(iii) is guilty of contempt on any other grounds specified in statute or recognized at common law.

(b) The committee may petition the district court to enforce its order of contempt.

Section 5. **HR-37.15** is enacted to read:

HR-37.15. Committee Action upon Completion of Inquiry; Speaker to Appoint Impeachment Managers; Presentation of Articles of Impeachment.

(1) After the House Judiciary Committee has received testimony and other evidence, the committee, upon motion made by any member of the committee, may direct that articles of

impeachment be drafted.

(2) If the motion passes, the speaker shall appoint a committee of five impeachment managers from the membership of the House Judiciary Committee, no more than three of whom are from the same political party, to prepare the articles of impeachment.

(3) The impeachment managers shall present the proposed articles of impeachment to the House Judiciary Committee for its approval, approval as modified by the committee, or rejection.

(4) If the committee approves, by majority vote, any or all of the articles of impeachment submitted by the impeachment managers, the committee shall refer the approved articles of impeachment to the House of Representatives for its action.

Section 6. **HR-37.16** is enacted to read:

HR-37.16. House action on Articles of Impeachment.

(1) The impeachment managers shall submit the articles of impeachment and evidence supporting the articles of impeachment to each member of the House of Representatives.

(2) After receiving articles of impeachment from the House Judiciary Committee, the House of Representatives shall vote on each article separately.

(3) In order to impeach, each article must receive the approval of two-thirds of all the members elected to the House of Representatives.

Section 7. **HR-37.17** is enacted to read:

HR-37.17. Notice to Senate of Approval of Articles of Impeachment.

If the House of Representatives approves any or all of the articles of impeachment, the House shall submit the articles of impeachment that passed to the Senate.

Section 8. **HR-37.18** is enacted to read:

HR-37.18. Impeachment Manager, Special Impeachment Counsel; Role in the Senate trial of impeachment.

The impeachment managers and the special impeachment counsel shall:

(1) inform the President of the Senate that the House has impeached a state or judicial officer and that the Senate is constitutionally required to convene a court of impeachment;

(2) present the articles of impeachment at the bar of the Senate; and

(3) prosecute the impeachment case against the impeached state or judicial officer based upon the articles of impeachment.

Section 9. Effective date.

This resolution takes effect upon approval by a constitutional majority vote of all members of the House of Representatives.

Section 10. Repealer.

HR-37.11 through HR-37.18 are repealed December 1, 2003.