



## H.Res.828 – Impeaching John Andrew Koskinen, Commissioner of the Internal Revenue Service, for high crimes and misdemeanors (Rep. Fleming, R-LA)

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### FLOOR SCHEDULE:

Expected to be considered on Tuesday, December 6, 2016 as a privileged matter.

It is anticipated that the House will vote on a motion to table the resolution, as well as a potential motion to refer the matter to the Committee on the Judiciary. The adoption of either the motion to table or to refer would prohibit further action on the question of impeachment at this time.

### TOPLINE SUMMARY:

[H.Res. 828](#) is a privileged resolution that calls for articles of [impeachment](#) to be brought against Internal Revenue Service (IRS) Commissioner John Koskinen. Representative Jordan filed notice to call up the resolution as privileged on December 6, 2016, requiring a vote within two legislative days.

### COST:

There is no Congressional Budget Office (CBO) estimate available.

### CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

### DETAILED SUMMARY AND ANALYSIS:

This privileged resolution comes on the heels of multiple attempts to call for Commissioner Koskinen's removal from office or impeachment. In May, Representative Chaffetz introduced [H.Res. 737](#), a resolution to condemn and censure Commissioner Koskinen. This resolution was reported, as amended, by the House Committee on Oversight and Government Reform. In July, Representative Fleming filed the [resolution](#), H.Res. 828, calling for the impeachment of Commissioner Koskinen, later filing [notice](#) to call up the resolution as privileged. That particular notice has since expired. Rep. Fleming again filed [notice](#) on September 13, 2016. That notice also expired.

The move to impeach Commissioner Koskinen stems from a series of misleading actions and a betrayal of trust following the Justice Department's investigation into the wrongful targeting of conservative groups by the IRS. In arguing for impeachment, many Republicans point to the Commissioner's [refusal](#) to participate in House proceedings and his refusal to comply with a House issued subpoena to produce certain IRS

documents. Republicans also assert Commissioner Koskinen [misled](#) Congress about missing [emails](#) sent to and from Lois Lerner. In July 2015, Chairman Chaffetz, along with 51 Republicans, sent a [letter](#) to President Obama calling for Commissioner Koskinen's removal. Further, the House Judiciary Committee held a two-part [hearing](#), to which Commissioner Koskinen was invited to appear, to investigate the findings of the House Committee on Oversight and Government Reform, which unveiled that the Commissioner's failure to comply with a congressional subpoena resulted in the destruction of evidence and a failure to notify Congress of the destruction. Commissioner Koskinen, after several threats of impeachment, [finally](#) appeared at a House Judiciary hearing, alleging he did not commit any impeachable offenses.

The IRS has [admitted](#) to improperly targeting conservative groups, delaying applications for tax-exempt status from 2010-2012, with at least 75 groups selected for extra scrutiny. Moreover, this August, the D.C. Circuit Court of Appeals ruled that the IRS has yet to [demonstrate](#) that officials have definitively ceased targeting conservative groups. The ruling comes at the heels of evidence that two targeted conservative groups continue to have delayed applications for tax-exempt status pending at the IRS.

The process of impeachment was added to the Constitution by America's Founding Fathers as a necessary reaction to the inability to impeach the Crown under British rule. While British Constitutional law [allowed](#) impeachment as a means of holding the ministers of the King accountable, the King was viewed as transcending the law and could not be found guilty of any crime. Terms of impeachment were therefore added to the Constitution, allowing for the removal from office of any government official, with explicit reference to the president and vice president.

The House of Representatives has initiated impeachment proceedings more than 60 times, with only 19 of those cases proceeding to a successful vote. [According](#) to the House Office of History, Art and Archives, only eight individuals have been convicted by the Senate and removed from office, all of whom were federal judges. Of the 19 individuals voted to be impeached by the House, 15 were federal judges, two were presidents—Andrew Johnson in 1868 and Bill Clinton in 1998— as well as William Belknap, the Secretary of War in 1876, and Senator William Blount in 1797. The most recent impeachment was of federal judge Thomas Porteous of the Eastern District of Louisiana, who was removed from office on December 8, 2010.

The impeachment process is generally commenced in the House of Representatives by a Member declaring impeachment charges, either under oath or through resolution. The charges are then typically referred to the House Committee on the Judiciary. Resolutions for impeachment investigations can go through the House Committee on Rules, or may be called up for [consideration](#) in a privileged manner, as was the [case](#) with President Nixon through H.Res. 803 in 1974. Historically, before the commencement of any impeachment proceeding, the House of Representatives typically investigates the charges before calling for a vote. Investigations pertaining to impeachment are generally handled by the Judiciary Committee, though they have in the past been referred to other Committees as was seen in the impeachment of President Johnson and the House Committee on Reconstruction. The House may then vote on the articles as a whole, or on an article-by-article basis. In the event the House votes to impeach an official, the Senate then has the ability to try the official, with a two-thirds vote resulting in removal from office.

### **COMMITTEE ACTION:**

H.Res. 828 is a privileged resolution, which requires filing notice to call up the resolution as privileged. The resolution must then be voted on within two legislative days prior to its expiration.

H.Res. 828 was introduced on July 13, 2016 and was referred to the House Committee on the Judiciary.

### **ADMINISTRATION POSITION:**

A Statement of Administration Policy is not available.

### **CONSTITUTIONAL AUTHORITY:**

The Constitution provides for the impeachment of the President, Vice President, and civil officers of the United States for crimes including bribery, treason, and other high crimes and misdemeanors through Article II, Section 4 of the U.S. Constitution. The [House of Representatives](#) is the sole authority that can bring impeachment charges on the basis of its oversight and investigative duties through Article I, Section 2 of the Constitution. The Senate then has sole authority to serve as the court for impeachment trials, requiring a two-thirds vote to remove an official from office, through Article I, Section 3 of the Constitution.

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