

Week ending 09/24/17 - PA-08 MoCTrack Report

Tracking Congress in the Age of Trump

The lower the number, the more the legislator is in opposition to the Trump agenda.

Senator Bob Casey - **28.6%** (no change from last week)

Representative Brian Fitzpatrick - **80.0%** (no change from last week)

Senator Pat Toomey - **91.7%** (no change from last week)

Nate Silver's FiveThirtyEight website assesses the voting records of our MoCs to provide this index assessment. The numbers are static because there were no scored votes this week.

MoC Twitter Action

Senator Bob Casey hot topics:

The Senator is back to form, with almost a hundred tweets this week, mostly focused on health care and Graham-Cassidy. He had a tweetstorm where he noted how much more expensive PA coverage would be for a variety of pre-existing conditions (examples - premium increase of \$17,000+ for pregnancy, premium increase of \$26,000+ for rheumatoid arthritis). He linked to a number of articles with detail about the various awful impacts the GOP healthcare plan would have, and shared pictures from his Temple Hospital event protesting the bill.

Casey tweet of the week, 09/21/17: "Graham-Cassidy would decimate Medicaid, worsen the opioid crisis, and raise premiums in every county in Pennsylvania. It must be stopped! "

Representative Fitzpatrick hot topics: The Representative was unusually quiet this week, with only four tweets. He shared a picture of himself bagging groceries at a local store, wished everyone celebrating a Happy Rosh Hashanah, and retweeted two items. One of the retweets was of a picture of him with school children for Constitution week, and another was a comment from a fellow Representative on the need for tax reform.

Fitzpatrick tweet of the week, 09/20/17: "Excellent time bagging groceries at @ShopRiteStores in #Warminster as part of their Bag to End Hunger donation prgm"

Senator Pat Toomey hot topics:

The Senator continues to devote most of his twitter content to tax reform. He provided a chart that shows the US corporate tax rate as compared to other industrialized nations, and promoted a media event where he discuss potential reform plans. He also shared information about the bipartisan BRINK Act he co-authored with Sen. VanHollen of CT that would address North Korean aggression with stricter financial repercussions.

Toomey tweet of the week, 09/21/17: "Glad @POTUS going after banks facilitating trade w/ NK. My & @ChrisVanHollen's BRINK Act needed now to put mandatory sanctions on bad banks."

Casey in the News

Topic One: the Graham-Cassidy healthcare plan

A variety of outlets covered Senator Casey's vigorous opposition to the latest GOP healthcare plan. The Ellwood City Ledger quoted Senator Casey, who said "This latest bill is nothing but a snake in the grass, and it's a venomous snake that will bite a lot of people. This is a bad bill. It is bad for America." The national outlet Politico had a 09/19/17 article where they described the efforts that Democrats in the Senate might use to tie up the bill. Senator Casey told Politico that he would defer to party leaders on strategy, but he went on to say "We should use any procedural method we can to stop it — it's that bad. It's not only a terrible bill but it might be the worst of all." Senator Casey held a rally against the Graham-Cassidy plan at Temple University Hospital on 09/21/17, and a number of media sources covered the

event. CBS KDKA out of Pittsburgh had video of the event, and Senator Casey said that Graham-Cassidy is "... a huge bill to totally destabilize the insurance markets, to knock millions of people off of Medicaid and to ruin the health care system in America and they have one hearing scheduled." The Delaware County Daily Times carried a 09/21/17 piece where the Senator was quoted, saying "this latest scheme is the most offensive yet. These data show that every county in Pennsylvania could see costs rise if this bill becomes law. Many communities across the commonwealth could see premium increases over \$1,000 per year."

Topic Two: Protestors

WFMZ 69, the local news station out of Allentown, has a 09/17/17 video report of protestors outside of Senator Casey's local office. They called on the Senator to stop blocking Trump's agenda. The article that accompanied the video quoted one of the participants, who said they supported "...things like build a wall, repeal ObamaCare, tax reform. We all know the list but Mr. Casey has been pandering to the left." The Pittsburgh Post-Gazette carried a 09/21/17 article that covered a different protest. Anti-abortion activists gathered outside Casey's Pittsburgh office on 09/20/17 to demand that federal funding to Planned Parenthood be eliminated. The article explains that "like his father, the late Gov. Robert P. Casey, Mr. Casey is Catholic and opposes abortion. But he has supported Planned Parenthood's other services, arguing that they reduce the need for abortion."

Topic Three: the Senate Committee on Aging

Senator Casey is the ranking member of the Senate's Committee on Aging, and an industry newsletter called "Advanced Senior Care" covered a recent committee meeting on disaster planning for seniors. The 09/17/17 piece quoted the Senator, who noted "As we have learned from Hurricanes Irma and Harvey as well as past catastrophes such as Hurricane Katrina, some of our neighbors — especially seniors — face many obstacles during a crisis, and we must focus on the attention older adults may need. This hearing, which will be held during National Preparedness Month, will help improve preparedness and response efforts so that the next time disaster strikes, tragedies like the one that occurred at the nursing home in Hollywood, Florida, may be avoided."

Topic Four: Constitution celebrations

This past week marked the 230th anniversary of our nation's Constitution. The website WeAreCentralPA.com announced the Senator Casey was going to speak about the Constitution at the Centre County Grange Fair on 09/17/17. WPSU out of Penn State covered the event in a 09/18/17 article. The piece said that "...Many speakers talked about the practical meaning of the Constitution. U.S. Senator Bob Casey told the story of Benjamin Franklin's contributions to drafting the Constitution and said the nation was built on optimism."

Fitzpatrick in the News

ISSUES and LEGISLATION:

Intelligencer, 9/17/17, letter to the editor from Ardith Talbott of Solebury, "The fight to end gerrymandering." The writer praises Rep. Fitzpatrick and other current and former legislators who have signed on to a friend-of-the court brief in a gerrymandering case set to be heard by the U.S. Supreme Court.

Bucks County Courier Times, 9/18/17, op-ed by Thomas G. Wells, chair of the Yardley Borough Planning Commission, "The 'New Normal' should not be 500-year flooding." The writer commends Rep. Fitzpatrick for his legislative work with the "bipartisan and proactive" Climate Solutions Caucus and the Problem Solvers Committee in efforts to reduce the greenhouse gas pollution that contributes to climate change and flooding.

Intelligencer, 9/19/17, "Senate military authorization bill passes with PFC amendments," a lengthy article on the mechanics of funding for a study on PFC contamination, which affects drinking water in several Bucks and Montgomery County communities. It is part of the paper's continuing coverage on the contaminated water. The Senate has passed a \$700 billion military authorization bill that includes \$7

million for a national health study on communities affected by PFC contamination. The article notes that the House bill, passed in July, also had funding for the study, introduced by Rep. Fitzpatrick. But the funding would need to survive the reconciliation and appropriations processes in both chambers.

Intelligencer, 9/21/17, letter-to-the-editor, "Common sense vote." The writer, Heather Reams of Citizens for Responsible Energy Solutions, commends Rep. Fitzpatrick for being one of a "handful of Republicans" to vote against two amendments designed to defund regulations on fossil fuels.

PoliticsPa blog, 9/21/17, "Healthcare Comes Front & Center in Congressional Race." Both Democrats and Republicans are using healthcare reform to swat at their opponents. The Democratic Congressional Campaign Committee is trying to get Reps. Fitzpatrick, Costello, Smucker and Meehan to go on the record regarding the Graham-Cassidy bill. The National Republican Congressional Campaign, for its part, is trying to get Democrats to go on the record regarding what it calls Sen. Bernie Sanders' "socialist" single-payer healthcare insurance plan.

Morning Call, 9/21/17, letter-to-the-editor, "Close colonoscopy loophole." The writer, Brian Kline, urges Rep. Fitzpatrick to support bipartisan legislation that removes a potential cost barrier to colonoscopy affecting those covered by Medicare.

THE 2018 ELECTION

Washington Post, 9/20/17, "Lots of vulnerable House Republicans come from states that will lose under Cassidy-Graham." Opinion article lists districts in states that would lose federal health care funding under the Cassidy-Graham bill that have been designated as "toss up" or "lean Republican" by the Cook Political Report. Included are Pennsylvania seats held by Reps. Fitzpatrick, Costello and Dent, who has announced his retirement.

LOCAL INTEREST

Bucks Local News, 9/18/17, "WIMEOWEH: Record-breaking crowd stirs the lion at Doo-wop in the Park in Bristol Borough," Rep. Fitzpatrick was among the public officials who stopped by the well-attended Saturday night doo-wop festival in Bristol. (WIMEOWEH is a reference to the chorus of "The Lion Sleeps Tonight.")

Intelligencer, 9/20/17, "Rep. Brian Fitzpatrick bags groceries for hunger awareness." The congressman joined other Bucks County officials at the ShopRite supermarket in Warminster to raise awareness of National Hunger Action Week and the market's support for anti-hunger charities.

Bucks County Courier Times, 9/21/17, "Morell Smith Post 440 changes command." Rep. Fitzpatrick presided at a ceremony marking a change of leadership at the American Legion post in Newtown Borough.

Toomey in the News

Topic One: Tax reform

Newsworks.org, a local news effort from Philadelphia's NPR station, has an extended piece on Senator Toomey's tax reform efforts. In their interview with the Senator, he said "My attitude is that the Senate has a tremendous opportunity here. We've been wanting to do tax reform for a very long time. I'm just going to do my job and try to be part of getting [a tax bill] to the president's desk, and, if we can do that, I'm very confident he'll sign it." He told Newsworks that he wants to simplify the tax code but he would not comment on any specific items being debated (like the mortgage interest or charitable donation deductions), adding "Many of the individual write-offs and loopholes and deductions do have a tendency to distort and pick winners and losers. But I can't give you an opinion on any one item by itself, because it's all going to occur in an overall context." This interview and its accompanying article were shared by numerous other NPR stations across Pennsylvania. Patch.com's Bensalem version also covered the tax reform movement, but noted concerns about negative effects it might have on Pennsylvanians. The article says that "...as part of a much-awaited reform package, the Trump administration says it plans to dump the federal property tax deduction for state and local taxes that saves Pennsylvanians, on average,

\$2,182 a year.” The Patch piece quotes Senator Toomey, who said that a tax reform plan will be “...the best economic stimulus for the middle class.” The Senator went on to criticize President Obama’s economic policy after the recession, noting that it produced “...the slowest lowest post-recession recovery since World War II, weak job growth, and stagnant household income.” The Patch article then notes “Critics, however, view the [tax reform] plan as a giveaway to corporations and a tax cut that will likely benefit the rich while removing a deduction that property owners have come to depend on.” By 09/19/17 many national outlets were reporting on a tentative deal in the Senate Finance Committee that would move the tax reform plan forward. Reuters quotes Senator Toomey, who said “I am confident the budget agreement I have reached with Chairman Enzi and Senator Corker will give the Finance Committee the headroom needed to write a pro-growth tax plan that reforms the code, causes the economy to surge, and ultimately results in reduced federal budget deficits.” The Washington Times carried a 09/21/17 piece that observed “The agreement between Mr. Corker, a deficit hawk, and Mr. Toomey, who advocates even deeper tax cuts, was a crucial first step toward a blueprint.” The title of that piece shows the scope of the proposed plan - “Republicans to introduce \$1.5 trillion tax cut blueprint in Senate next week.”

Topic Two: DACA

In the earlier-referenced Newsowrks.org interview, the Senator touched upon DACA briefly. He said, “If you grant legal status to a large segment of the population that is here illegally, you’re sending a message around the world that if you can make it into America, even illegally and just wait it out, eventually you’ll be given legal status.” The Senator went on the Rich Zeoli Show on Talk Radio 1210 WPHT on 09/17/17, and talked at length about the Dreamers. He said “So there’s a great opportunity to say ok, let’s go ahead and create a legal status and maybe even a passage to citizenship for these folks, but let’s also recognize that doing that has implications and we should deal with that in a legislation that ties several things together. So, one of the obvious implications is if you grant a legal status to people who came here illegally, you’re pretty much inviting another wave of illegal folks that come here with the expectation that at some point they’ll get a legal status too. So we should use the occasion to strengthen border security. We should use the occasion to crack down on sanctuary cities so that we don’t have those handfuls of dangerous criminals among the illegal people getting an opportunity to live safely in some of our big cities. We ought to look at modifying our legal immigration system which is, I think too dependent on extended families and ought to be more based on merit. So I think a deal could be done here and frankly I hope we do.”

Topic Three: Graham-Cassidy healthcare plan

While his Senate colleague was much quoted in various press outlets about the Graham-Cassidy plan, Senator Toomey has had very little presence on this issue. In a 09/19/17 piece, CNN reported Senator Toomey said “I haven’t decided yet” whether to support the bill. The 09/21/17 Delaware County Daily Times piece got in touch with a spokesperson for Senator Toomey who noted, “Sen. Toomey and staff are in the midst of reviewing the bill.” The Cumberland Sentinel reported on 09/22/17 that Governor Wolf sent a letter urging both Pennsylvania senators to oppose Graham-Cassidy, saying the bill would create “a fiscal crisis beyond what Pennsylvania has experienced to date.” As of Saturday morning, there were not any quotes from Senator Toomey either in support of or in opposition to the bill.

Learning about Legislation - the Senate Parliamentarian and Reconciliation

The reason that the Republicans in the Senate are pushing the Graham-Cassidy healthcare plan so hard is because they have to pass it by September 30th if they want to use that “reconciliation” procedure that lets them pass bills with a simple majority of votes, instead of the filibuster-proof 60 votes. Since it is highly unlikely the GOP will be able to sway 8 Democrats to any of their versions of health care reform, that means that this is their last chance to repeal and replace Obamacare. But why September 30th? Who made that rule? Well, it turns out that there is an unelected staff member of the Senate who has a lot more power than many of us might have thought prior to this month.

The rules, regulations and customs in the Senate are a dense tangle of precedent and parliamentary procedure. It is so complex that the Senate has an “Office of the Parliamentarian of the United States Senate,” where a small staff of employees works to advise the presiding senator of correct

procedure. There is always a parliamentary staff member on hand to provide advice. From the position's creation until 1949 there was only one parliamentarian, and that poor man was once called upon to stay in the senate for a filibuster that lasted 48 hours. That unlucky gentleman, Charlie Wilkins, undertook a massive review of the Congressional Record dating back a number of decades, and was the first person to compile a register of Senate procedures. A book based on his research, Riddick's Senate Procedure, is still in use today. When a Parliamentarian rules on appropriate procedure, it is within the rights of the presiding Senator to disregard that advice, but it is perishingly rare. The last time a Parliamentarian's ruling was set aside was in 1975.

The current Senate Parliamentarian is Attorney Elizabeth MacDonough, who has held the position since 2012. Prior to her appointment to the head of the department, she worked in the Senate Parliamentarian's office since 1999.

The parliamentarian often has to determine if a proposed piece of legislation can be passed by "reconciliation" procedures. In the 1970s a new process was created to allow bills related to finance and spending (like budgets and debt limit bills) to pass via a simple majority, without giving the opposition party any ability to filibuster them. The limit on this process is that the parliamentarian decides whether the bill is indeed strictly spending related, or if it contains prohibited policy content. In the case of the GOP's repeal and replace efforts, Parliamentarian MacDonough interpreted the existing Senate procedures to note that the deadline for using the financial-related reconciliation process was the end of the fiscal year - thus the September 30th deadline.

Votes of Interest

There was not a lot of voting in Congress this past week. One uncontroversial vote represents a victory for all three of our Members of Congress, and another Senate vote presages a consequential Senate confirmation that is likely to fly under the radar.

H.R. 2810: National Defense Authorization Act for Fiscal Year 2018

<https://www.govtrack.us/congress/bills/115/hr2810/text>

This is the Defense budget for the coming year. It passed the House in July with a vote of 344-81 (**Fitzpatrick voted YES**). The reason all three of our Members of Congress have championed this bill is that it contains a part (Section 1060, and subsections A and B to be exact) that addresses the issue of water contamination near military bases from the use of a fire fighting foam that contains PFOA and PFOS. There is an area around Warminster that has been particularly affected by this water contamination, and it has also occurred in other areas of the state. This Section 1060 makes the Department of Defense pay for a study to determine the extent of contamination, develop a remediation plan, and create an alternative firefighting material that will not cause these same contamination issues. The Senate passed this bill 89-8, and **Casey voted YES** and **Toomey voted YES**.

Cloture vote on the National Labor Relation Board nomination of William J. Emanuel

<https://www.govtrack.us/congress/votes/115-2017/s202>

Let me be clear up front - this nomination has not been approved yet. This cloture vote means that the Senate is voting to end debate, and take a vote on the actual nomination. They voted to end debate back on 09/19/17, but then the Graham-Cassidy fracas overtook all their time and they never got to actually confirming this person. But this position is incredibly important and this man's confirmation may well prove to be a massive shift in the way the Administration deals with labor issues, and not in a good way. The National Labor Relations Board has five appointed members who serve five year terms. Barring any untimely resignations, President Trump is going to get to appoint a total of three seats. He has already gotten one very contentious nominee through, and this is his second. If Mr. Emanuel is confirmed, this will be the first time there will be Republican control of the NLRB since 2008.

The NLRB makes important decision that affect many people's lives, even if we are unaware of that fact. That National Review outlined this year's NLRB agenda in and 08/03/17 article, noting that they would consider "...standards for determining whether joint employer relationships exist, the standards for

evaluating whether handbooks and work rules unlawfully interfere with employees' rights under the National Labor Relations Act ("NLRA"), the Board's standards for determining what are appropriate units for collective bargaining including a review of the so-called "micro-units" approved by the Obama Board, the status graduate students and research assistants as employees under the NLRA with the right to collective bargaining, and a host of other decisions from the past eight years that more expansively interpreted the NLRA." You can read that bit about other decisions of the last eight years as yet another area where President Trump's appointees are undoing the progressive actions of President Obama's Administration.

And this nominee is not simply objectionable because he is a Trump pick. Read what Mother Jones had to say about William J. Emanuel in a 07/19/17 piece. "Emanuel is a shareholder and longtime lawyer at Littler, the world's largest management-side employment law firm. Sen. Elizabeth Warren (D-Mass.) has called it is one of the nation's "most ruthless" union-busters. Emanuel's clients include Uber and other companies accused of violating workers' rights, according to his ethics disclosure form.... At Emanuel's nomination hearing last week, Sens. Al Franken (D-Minn.) and Warren were particularly concerned by Emanuel's record of defending the mandatory arbitration agreements that Carlson and many others have signed. Pressed by Franken, Emanuel declined to criticize arbitration agreements that prevent women who are sexually harassed from suing their employers in court."

Keep an eye out for this nomination of William J. Emanuel being confirmed by a party line vote in the coming week or two.

Legislation of Interest

The Congress has been busy proposing a number of ways that Special Counsel Robert Mueller might be protected from being fired by the President. Let's review some of them:

S. 1735: Special Counsel Independence Protection Act

<https://www.govtrack.us/congress/bills/115/s1735/text>

This bill was introduced by Sen. Lindsey Graham (R-SC). It has three co-sponsors, all Democrats (Blumenthal of CT, Booker of NJ and Whitehouse of RI). Govtrack notes that this bill would allow a special counsel to be fired only if a federal court first establishes that they had exhibited "misconduct, dereliction of duty, incapacity, conflict of interest, or other good cause for removal." Senator Graham has said the following of his bill, "Checks and balances have served the country well for the past two hundred years. We should all be interested in making sure that special counsels have oversight. Special counsels must act within boundaries, but they must also be protected. Our bill allows judicial review of any decision to terminate a special counsel to make sure it's done for the reasons cited in the regulation rather than political motivation. I think this will serve the country well."

S. 1741: Special Counsel Integrity Act

<https://www.govtrack.us/congress/bills/115/s1741/text>

This bill was introduced by Sen. Thom Tillis (R-NC). It has one cosponsor, Sen. Chris Coons (D-DE). This bill was introduced on the same day as Graham's bill, and it adds to the process established by S. 1735 and would allow for judicial review of the dismissal of a special counsel. It would allow the special counsel to be reinstated if a three-judge panel found it appropriate. Senator Coons has said of this bill, "Our bill ensures that, if the president tries to protect himself by firing the Special Counsel, or if someone tries to fire the special counsel without good cause, a court, not the president, will have the final say. This bill is about ensuring that the special counsel cannot be removed improperly, a protection that is critical not just for the current investigation but for investigations conducted by special counsels in the future." The Senate Judiciary Committee is holding a hearing on this bill on September 26, 2017.

H.R. 3654: Special Counsel Independence Protection Act

<https://www.govtrack.us/congress/bills/115/hr3654/text>

This bill was introduced by Rep. Sheila Jackson Lee (D-TX) and it does not have any co-sponsors in the House yet. It is identical to S. 1735.

H.R. 3771: To ensure independent investigations by allowing judicial review of the removal of a special counsel

<https://www.govtrack.us/congress/bills/115/hr3771>

This bill was introduced by Rep. John Conyers (D-MI). It is so new that text is not yet available for general review, but it already has one cosponsor, Rep. Walter Jones (R-NC).

If you value the investigation being performed by Special Counsel Mueller and his team, you may want to contact your MoCs and ask them to co-sponsor one or all of these legislative efforts to protect the investigators' work from political interference and obstruction.

If you are interested in following all of the voting action in Congress there are a number of phone apps that come in handy. One of our fearless leaders, Connie Gruen, recommends the Countable app. It is available for both Apple and Android phones. You can sign up at Countable.us to get instant notification when our legislators vote, as well as details on each measure, pros and cons, status, and links to take action.

For those of you who are more computer- versus phone-oriented, I recommend Govtrack.us - the website enables you to add individual bills that interest you to a docket, so you can easily see the status of all your items in one place. They can also provide daily or weekly digest emails (your choice) to track the action of any legislator, committee, bill or vote. If not for [Govtrack](http://Govtrack.us), I would not be able to compile this report.

This report brought to you by the PA-08 MoCTrack team...

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We are seeking additional assistance. Our Congresspeople are always busy and there is always more for us to cover - tasks big and small to fit any level of time commitment. Can you help us out? Please email KierstynPZ@gmail.com and put "MoCTrack Help" in the subject. Thanks!