

Week ending 11/26/17 - PA-08 MoCTrack Report

HAPPY THANKSGIVING FROM MoCTRACK!

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 - **28.8%** (no change from last week)

Representative Brian Fitzpatrick - **81.1%** (no change from last week)

Senator Pat Toomey - **90.2%** (no change from last week)

Nate Silver's FiveThirtyEight website assesses the voting records of our MoCs to provide this index assessment. With both houses on recess there were no votes scored.

Upcoming Votes

With Congress on recess there were no votes taken this past week. Let's use this opportunity to look at what bills will be on the docket when our hard-working legislators return to Washington DC.

For the House, all information comes from [Majority Leader Kevin McCarthy's website](#), as he and Speaker Paul Ryan determine the upcoming schedule. One day next week is devoted to a slate of Natural Resource Committee Bills ([H.R. 2768](#), [H.R. 2615](#), [H.R. 1491](#), and [H.R. 3115](#)). These bills deal with naming of mountains and exchanging parcels of land between public and non-government entities (a VFW post, an Indian reservation) to create contiguous boundaries for national lands. There is also a bill under consideration ([H.R. 995](#) - the 21st Century Respect Act) that will swap out some dated words defining certain races (like "Oriental" and "Negro") in federal regulations with more modern, culturally appropriate words. There is going to be consideration of a bill that currently exists only in [draft form](#) to ensure that all members of Congress, officers and employees goes through a training session on "workplace rights and responsibilities" every two years. I am unclear if this draft bill is going to be replaced with Rep. Jackie Speier's [sexual harassment bill](#) that was referenced in last week's MoCTrack report or a [different one](#) that was recently introduced by Rep. Brenda Lawrence (D-MI).

The Senate maintains a schedule on its own [official website](#), apart from that of Sen. McConnell's online presence. The only upcoming item the website references is consideration of a US District Judge nomination for Washington DC (Dabney Langhorne of CA). However, we all know that most of the Senate's attention is going to be on the GOP tax plan, and we should expect that to take up the majority of their bandwidth in the coming week. Senate Majority Leader McConnell won't bring it up for a vote until he is sure he has all the votes he needs to pass it, so this make occupy the Senate for some time.

MoC Twitter Action

Senator Bob Casey hot topics: Apart from sending out a holiday message, Senator Casey has taken the long Thanksgiving weekend off from Twitter (the longest consecutive period without tweets since I began covering him). In the days prior to the holiday, the Senator split his attention between a veterans homelessness initiative, the FCC rollback of net neutrality protections, the deal between Univision and Verizon that got Spanish-language programming back onto Verizon's platform, and - of course - the GOP tax bill.

Casey tweet(s) of the week, 11/21/17: "@AjitPaiFCC's decision to roll back net neutrality protections is disappointing and puts the open internet at risk. While I urge the FCC to reject this plan, we must work on a bipartisan legislative solution to ensure net neutrality principles are upheld and enforced."

Representative Fitzpatrick hot topics: The Representative was silent for much of the week, only tweeting twice, on 11/21/17. He announced his Puerto Rico Thanksgiving plans, and shared a link to a press release from his office, calling for the Ethic Committee to investigate the "misuse of taxpayer funds" of having that money spent on "cover[ing] up sexual harassment suits."

Fitzpatrick tweet of the week, 11/21/17: "I will be spending #Thanksgiving in #PuertoRico inspecting hurricane recovery efforts & meeting directly with affected residents, local government leaders & humanitarian professionals on the island."

Senator Pat Toomey hot topics: The Senator continues his trend of pushing the tax reform bill in his tweets. But he spread his attention more this week than in the last few months. In addition to offering Thanksgiving greetings and support of the Shop Small Saturday, Senator Toomey also commended the president for his plans to redesignate North Korea as a state sponsor of terrorism, and promoted his BRINK Act in the same message.

Toomey tweet of the week, 11/22/17: "Happy @RepSmucker was able to join me in Lancaster yesterday to discuss how #TaxReform will benefit Pennsylvania families and businesses."

Casey in the News

Topic One: Transparency in online political advertisements

The [Reading Eagle](#) reported on Senator Casey's endorsement of a transparency initiative. He was one of 15 Democratic Senators who signed on to a letter to the Federal Election Commission (FEC), asking them to tighten up their rules about political advertising online in the wake of revelations that ads were paid for by Russia during the last election cycle (an action that would have been illegal if the attempt to purchase had been made on more traditional media, like print, radio or television). The letter reads, in part, "The FEC must close loopholes that have allowed foreign adversaries to sow discord and misinform the American electorate. The lack of transparency of digital ads is a threat to our national security. The article ends by noting that Senators Amy Klobuchar (D-MN), John McCain (R-AZ) and Mark Warner (D-VA) introduced a bill last month to make sure that online outlets abide by the same political advertising rules as traditional media.

Topic Two: GOP Tax Bill

The [ABC News](#) affiliate out of Harrisburg covered a Tuesday 11/22/17 visit that Senator Toomey made to Lancaster with area Congressman Lloyd Smucker to promote the Republican tax plan. That same article carried Senator Casey's comments about the existing bill. Senator Casey said, "This is a giveaway to the rich. That's exactly what I believe, and I think the evidence is very compelling that that's what it is. It doesn't do much at all for the middle class."

Fitzpatrick in the News

Topic One: GOP Tax Plan

The Bucks County Courier-Times carried several "vents" protesting Rep. Fitzpatrick's stance in favor of the Trump tax package. The Intelligencer carried a longer piece from a Plumstead Township man asserting that the main focus of interest would be how the tax plan would affect the "upper middle class," and implying that it wasn't positively. In earned press, PoliticsPA reported that the Democratic Congressional Campaign Committee and its allies have launched a digital ad campaign against Rep. Fitzpatrick and his fellow Republican Congressmen Ryan Costello and Pat Meehan, inviting people to record videos explaining why they oppose the Trump tax plan.

Topic Two: ARCTIC DRILLING

Two conservation organizations have directed more than \$1 million toward digital and TV ads intended to convince eight key representatives, including Fitzpatrick, to vote against a tax bill that would allow oil drilling in the Arctic Refuge, according to an online report by one of the groups, the Wilderness Society. Also cited in the online publication Adirondack Explorer.

Topic Three: Press releases from Fitzpatrick's office

In light of the slow news week, contributor Gail Friedman (who expertly provides the Fitzpatrick coverage each week) reviewed the press releases coming out of Rep. Fitzpatrick's media staff, to see what he is currently promoting.

Press releases issued by Fitzpatrick's office reported the following:

- that he supports relisting North Korea as a state sponsor of terrorism;
- that he called for an investigation into the use of public funds to compensate victims of sexual harassment in Congress;
- that he spent Thanksgiving in Puerto Rico assisting with hurricane recovery and talking with residents; and
- that he protested the imprisonment of a Ukrainian journalist and others in Russia in his role as a co-chair of the Congressional Ukraine Caucus, a statement that was published online by Ukrinform, the Ukrainian national news agency.

His office also issued a reprint of the Nov. 22 op-ed from the National Journal entitled, "The Swamp Remains Undrained." The article in the policy journal focuses on the stalled efforts by Rep. Fitzpatrick and other Republican reformers to enact term limits and benefit cuts that have been proposed for years. The news releases as of Nov. 26 had not been picked up by the local press. Stay tuned.

Toomey in the News

Topic One (and only): GOP Tax Bill

All of the news related to Senator Toomey from this week revolved around his Tuesday visit to Lancaster with area PA-16 Congressman Lloyd Smucker to promote the GOP tax plan. [PennLive](#) shared some statistics about how this tax plan will hurt the middle class once some tax cuts sunset after a decade, but quoted Toomey's response to this: "Once this is done, and once this is in law, people are going to see the benefit. I think they're going to want this to be made permanent, and so we will have many more opportunities in the future to revisit the expiration and stretch that out -- or, better still, make it permanent." [Lancaster Online](#) also honed in on the criticisms being leveled at the plan for ending any middle class tax cuts in the short term. The paper reported that the Senator "rebuffed some of its criticisms." Toomey observed, "I can guarantee you it's not perfect. But I do think it's very good. It's real progress, and almost all of it has spent a lot of time in the vetting." An [ABC News piece](#) (quoted above for Senator Casey) focused on Senator Toomey's sales pitch for the tax plan. He said to the group of business leaders who attended the Lancaster event, "We arguably have the worst business tax code in the industrialized world. And our bill will take it from being one of the very worst to one of the very best...Hard working American families, Pennsylvanians who get up every day and go to work to support their family, many of whom live paycheck to paycheck, have to see a tax cut. And that is in this bill. They will see a tax cut. And they're going to appreciate that. And that's going to help them make ends meet."

Learning about Legislation -The controversial history of Thanksgiving

When most of us think of the history of Thanksgiving, we think of Plymouth Rock, pilgrims, and the Native Americans who brought gifts of food that created the feast shared by those two peoples (and also enabled the settlers to survive their first winter in this new land). Not a great deal is said about the history of the holiday from a legislative perspective. As this holiday was an early battleground between presidents in regards to the separation of church and state, it merits our attention.

On October 3, 1789, George Washington issued what is referred to as the [Thanksgiving Proclamation](#). It is, in essence, an early executive order. He states, in part:

I do recommend and assign Thursday the 26th day of November next to be devoted by the People of these States to the service of that great and glorious Being, who is the beneficent Author of all the good that was, that is, or that will be—That we may then all unite in rendering unto him our sincere and humble thanks—for his kind care and protection of the People of this Country previous to their becoming a Nation—for the signal and manifold mercies, and the favorable interpositions of his Providence which we experienced in the course and conclusion of the late war—for the great degree of tranquility, union, and plenty, which we have since enjoyed—for the peaceable and rational manner, in which we have been enabled to establish constitutions of government for our safety and happiness, and particularly the national One now lately instituted—for the civil and religious liberty with which we are blessed; and the means we have of acquiring and diffusing useful knowledge; and in general for all the great and various favors which he hath been pleased to confer upon us.

For those of you keeping track, yes that was indeed one long sentence! Despite this heartfelt order, Thanksgiving fell into relative obscurity in the decades after Washington's presidency. [History.com](#) reports, "Thomas Jefferson, the third president, felt that public demonstrations of piety to a higher power, like that celebrated at Thanksgiving, were inappropriate in a nation based in part on the separation of church and state. Subsequent presidents agreed with him. In fact, no official Thanksgiving proclamation was issued by any president between 1815 and...1863." That Jefferson would feel this way about mingling religion and his official government duties is not surprising - this is a man who [edited the New Testament](#) to keep all the moral lessons but to exclude all miracles. Included in his papers in an 1801 letter explaining why Jefferson would not participate in speeches related to Thanksgiving in his own words. He wrote:

I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should make no law respecting an establishment of religion, or prohibiting the free exercise thereof; thus building a wall of separation between church and state. Congress thus inhibited from acts respecting religion and the Executive authorised only to execute their acts, I have refrained from prescribing even occasional performances of devotion prescribed indeed legally where an Executive is the legal head of a national church, but subject here, as religious exercises only to the voluntary regulations and discipline of each respective sect.

In the midst of the Civil War, Abraham Lincoln revisited the idea of a national holiday of Thanksgiving. [AbrahamLincolnOnline.org](#), a repository of Lincoln's papers and history, recounts that a woman named Sarah Josepha Hale had been urging presidents for the previous 15 years to reinstate the holiday via a letter campaign. Lincoln was the first of those presidential letter recipients to respond. On October 3, 1863, exactly 74 years to the day after George Washington's original proclamation, President Lincoln issued his own (composed by his Secretary of State, William Seward). It read, in part:

The year that is drawing towards its close, has been filled with the blessings of fruitful fields and healthful skies. To these bounties, which are so constantly enjoyed that we are prone to forget the source from which they come, others have been added, which are of so extraordinary a nature, that they cannot fail to penetrate and soften even the heart which is habitually insensible to the ever watchful providence of Almighty God. In the midst of a civil war of unequalled magnitude and severity, which has sometimes seemed to foreign States to invite and to provoke their aggression, peace has been preserved with all nations, order has been maintained, the laws have been respected and obeyed, and harmony has prevailed everywhere except in the theatre of military conflict... It has seemed to me fit and proper that they should be solemnly, reverently and gratefully acknowledged as with one heart and one voice by the whole American People. I do therefore invite my fellow citizens in every part of the United States, and also those who are at sea and those who are sojourning in foreign lands, to set apart and observe the last Thursday of November next, as a day of Thanksgiving and Praise to our beneficent Father who dwelleth in the Heavens."

The holiday has been celebrated, with some more modern ceremonies like the presidential pardoning of the Thanksgiving turkey, in that manner almost ever since. There was a three year period towards the end of the Depression when Franklin Delano Roosevelt attempted to change the holiday from the last Thursday to the third Thursday of November. [History.com](#) posits that this was to "boost the economy by providing shoppers and merchants a few extra days to conduct business between the Thanksgiving and Christmas holidays." This was, however, deeply unpopular, and the holiday returned to its final Thursday position by 1942.

With the end-of-year holiday season here, it is inevitable that we will soon be faced with Facebook posts and FoxNews rants about the "war on Christmas." When those show up, you may wish to remember that several of our own nation's presidents had a much more erudite and long-spanning debate on the same topic. And while the issue of separation of church and state is still one that our Supreme Court must revisit from time to time (most recently in this year's decision on [Trinity Lutheran Church v. Comer](#)), one rarely remembers that it was an integral component of the Thanksgiving holiday.

Are there questions that you have about how Congress works, about elections, about voting... or anything to do with government processes? I am looking for topics for future "Learning about Legislation" topics, so please - email me your questions at KierstynPZ@gmail.com - I can't promise that I already know the answer, but I will research the issue and share my findings with our readers in a future segment.

Legislation of Interest - The Articles of Impeachment (H. Res. 621)

With very little new legislation being introduced due to the holiday week, I thought this might be a good opportunity to take a deep dive into the Articles of Impeachment ([H. Res. 621](#)) that were introduced on 11/15/17 by Rep. Steve Cohen (D-TN) and five Democrat co-sponsors. There are five articles that the bill sponsors feel meet the Constitutionally-dictated level of “High crimes and misdemeanors”. This is what is encompassed in each article:

Obstructions of Justice - They allege that the President has “...engaged personally, and through his subordinates and agents, in a course of conduct or scheme designed to delay, impede an investigation, and to conceal information sought by the Federal Bureau of Investigation (FBI) in the course of its investigation into Russian interference with the 2016 United States Presidential election...” As evidence of this obstruction, they cite specific interactions between Russian Ambassador Kislyak and Michael Flynn, both before and after the election; President Trump’s interactions with former-FBI Director James Comey, including the loyalty oath dinner and Comey’s firing; President Trump’s interactions with the Russian Ambassador and his subsequent descriptions of why he fired James Comey; the President’s comments of live TV about his firing of Comey having been caused by “this Russia thing”; and the involvement of the President in the attempts to obfuscate details surrounding the meeting of his son, son-in-law and campaign manager with Natalia Veselnitskaya, the attorney allegedly connected with the Russian government.

Foreign Emoluments Clause Violations - the foreign emoluments clause of the Constitution (Article I, Section 9) says that the President cannot accept payments from foreign governments without express consent of the Congress. This segment of the Articles of Impeachment observes that the President has consistently refused to divest himself of his assets, place them in a blind trust, or even release his tax returns. It adds that “Donald J. Trump acknowledged, through his personal attorney, that his businesses receive funds and make a profit from payments by foreign governments, and would continue to do so while serving as President.” The article then provides a full listing of all of ways that the President is profiting from foreign governments without having received permission from congress, including diplomats staying at his DC hotel (and examples of governments who cancelled existing events at other venues so they could reschedule them at the President’s facilities); foreign governments that are tenants at Trump Tower in New York City (China and United Arab Emirates); a foreign government that is a tenant in the Trump World Tower in New York City (Saudi Arabia). It then notes the non-financial but nonetheless valuable concessions that the President continues to receive from foreign governments, like a long-delayed permit in Argentina finally being granted in the days after a post-inauguration congratulatory conversation was held between the Argentine President and Donald Trump; a similarly delayed permit in the country of Georgia was granted just after the election. It then cites the President’s promise, at a press conference, to donate all proceeds from foreign governments to the US Treasury. In April, the House Committee on Oversight and Government Reform Chairman Jason Chaffetz and Ranking Member Elijah Cummings requested information from the Trump Administration on how this process would be handled, and they received a response from the Trump Organization that said “...we believe it is premature to respond at this time.”

Domestic Emoluments Clause Violations - the foreign emoluments clause of the Constitution (Article II, Section 1) says that the President cannot accept payments from any part of the government (or any state) other than his salary. This article cites all of the times prior to its composition when Donald Trump has visited his own properties, like Mar-A-Lago and the Bedminster, New Jersey Trump National Golf Club. On each of those occasions the government has been charged for the housing arrangements for the Secret Service and support staff, which means that the President is accepting a payment, other than his salary, from the government.

Abuse of Power—Undermining the Independence of the Federal Judiciary and the Rule of Law

This article details the events of the various versions of the travel ban that the President has attempted to enact via executive order, and the manner in which he has interacted with the judiciary prior to and during

that time. This includes a 02/04/17 tweet, when the president said “The opinion of this so-called judge, which essentially takes law-enforcement away from our country, is ridiculous and will be overturned!” It also cites several spring 2016 comments then-candidate Trump made about a judge of Mexican descent who oversaw the Trump University class action lawsuit. Those comments include “I think Judge Curiel should be ashamed of himself. I think it’s a disgrace that he’s doing this ... I will tell you, this court system—the judges in this court system, federal court. They ought to look into that Judge Curiel because what Judge Curiel is doing is a total disgrace...” and “we are building a wall. He’s a Mexican. We’re building a wall between here and Mexico. The answer is, he is giving us very unfair rulings, rulings that people can’t even believe...This judge is giving us unfair rulings. Now, I say. Why? Well, I’m building a wall, OK? And it’s a wall between Mexico. Not another country.” This section of the articles also details the situation related to the pardoning of former-Sheriff Joe Arpaio, and observes, “by pardoning Joe Arpaio’s willful violation of a Federal court order, Donald J. Trump has offered encouragement to others to disobey Federal court orders with which Donald J. Trump may disagree. He has brought disrepute on the Presidency, and has acted in a manner subversive of constitutional government.”

Undermining freedom of the press - this section of the articles recounts almost a dozen different statements and tweets made by the President that have willfully created an atmosphere of blanket disbelief of journalists and the media in general. It includes the Megyn Kelly “blood from her wherever” comment, the planned (but not enacted) attempt to remove the White House press corps from the actual White House, the barring of all American reporters from the meeting between President Trump and the Russian Ambassador, and multiple iterations of “fake news.” This segment closes by noting that “In all of this, Donald J. Trump has sought to undermine the freedom of the press guaranteed by the First Amendment to the Constitution, brought disrepute on the Presidency, and has acted in a manner subversive of constitutional government, to the great prejudice of the cause of law and justice and to the manifest injury of the people of the United States.”

The final statement of the articles of impeachment says “Donald J. Trump, by such conduct, warrants impeachment and trial, and removal from office.”

As many pundits and journalists often remind us, impeachment is a political act, and one unlikely to come to any fruition while the Republican Party controls both houses of Congress. But it is truly interesting to note just how many ways, even in the absence of the results of the Mueller investigation, the President can be found to have violated the Constitution, the rule of law, and the democratic norms of this nation. Only you can judge for yourself if it is worthwhile to pressure your MoCs to support this Act.

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](https://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](https://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, 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!