

## Week ending 01/28/18 - 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 — **29.5%** (+0.7% from last report)

Representative Brian Fitzpatrick — **82.8%** (+0.3% from last report)

Senator Pat Toomey — **91.5%** (+0.3% from last report)

Nate Silver's FiveThirtyEight website assesses the voting records of our MoCs to provide this index.

Three votes were scored this week:

- Senate vote on Secretary of Health and Human Services nominee Alex Azar
- House and Senate votes on ending the government shutdown

Each of these votes is recapped under "Votes of Interest."

### Votes of Interest

**H.R.195 - Making further continuing appropriations for the fiscal year ending September 30, 2018, and for other purposes**

<https://www.govtrack.us/congress/votes/115-2018/h44>

<https://www.govtrack.us/congress/votes/115-2018/s17>

Shortly after last week's MoCTrack Report dropped the government shutdown ended. I am not going to recap the blame game and political spin machinations that followed the end of the shutdown, as people far more qualified than I have commented at length on that topic. If you are looking for some good pieces to get some perspective, I'd recommend [Vox's article](#) titled *3 winners and 2 losers from the deal ending the government shutdown* and [Slate's article](#) *Why Democrats caved*.

The Senate placed the first vote on reopening the government on 01/22/18. It passed, 81-18. **Casey voted YES** and **Toomey voted YES**. It then moved to the House on the same day. It passed 266-150. **Fitzpatrick voted YES**.

In addition to funding the government through 02/08/18, it also included funding for the Children's Health Insurance Program for six years. Senate Leader McConnell also agreed to put a DACA bill up for a vote in the Senate should larger immigration negotiations fail to bear fruit. No such promise was extracted for a House vote. Look for more government shutdown drama in another two weeks.

**On the Nomination PN1371: Alex Michael Azar II, of Indiana, to/ be Secretary of Health and Human Services**

<https://www.govtrack.us/congress/votes/115-2018/s21>

The Senate voted to confirm Alex Azar as the new Secretary of health and Human Services. He is replacing Tom Price, who was forced to resign after a private plane flight scandal late last year. [NPR](#) explained the extent of the responsibilities of the position, noting, "...he'll oversee the Food and Drug Administration, which regulates prescription drugs including those produced by his former employer. He'll also oversee Medicare and Medicaid, which together spend hundreds of billions of dollars each year on prescription medications. He'll take over the agency at a time when rising drug prices are a huge political issue." Mr. Azar is a former pharmaceutical executive who ran the US branch of Eli Lilly & Co. In addition to this corporate background, [Vox](#) reports that Mr. Azar has also served in both the executive and judicial branches of our government. They note, "During the George W. Bush administration, Azar served as general counsel and deputy secretary at HHS. He also clerked for Supreme Court Justice Antonin Scalia earlier in his career." [Med City News](#) reports that during the confirmation hearings, our own Sen. Bob Casey asked Mr. Azar "Do you commit to faithfully implementing the Affordable Care Act?" Mr. Azar responded, "If it remains the law, my goal is to implement it in a way that leads to affordable insurance, leads to choice of insurance, insurance that leads to real access... and insurance that has the benefits that the people want, not what we say in D.C. for them."

That “if” statement appears to have alienated a number of Democratic Senators. In the vote held on 01/24/18, Mr. Azar’s nomination was confirmed, 55-43. **Casey voted NO** and **Toomey voted YES**.

### **On the Nomination PN1341: Samuel Dale Brownback, of Kansas, to be Ambassador at Large for International Religious Freedom**

<https://www.govtrack.us/congress/votes/115-2018/s23>

Former Kansas Governor (and Senator) Sam Brownback was nominated by the Trump Administration to hold the position of Ambassador at Large for International Religious Freedom. The [Washington Post](#) details the demands of the position, explaining “his charge as the religious freedom ambassador, a position created 20 years ago by an act of Congress, is to confront the persecution of believers of many faiths, in a wide array of countries all over the world. Human rights violations in China. Kidnapped girls in Nigeria. Religious law in Saudi Arabia. Persecution of Muslims in Burma, Christians in Pakistan, and Bahais in Iran. And the list goes on.” Many people opposed to Brownback’s nomination held that opinion because of the former Governor’s troubling record on LGBT rights. The [Chicago Tribune](#) covered Sen. Robert Menendez’s (D-NJ) comments about Brownback’s confirmation hearing. Sen. Tim Kaine (D-VA) had asked questions related to the persecution of LGBT people, and Brownback’s answer was vague. Kaine ran out of time before he could press further. Sen. Menendez commented on the exchange, “I was deeply disturbed that when pressed during his confirmation hearing, Governor Brownback could not even bring himself to muster a resounding no, that it is never acceptable for a government to imprison or execute an individual based on their sexual orientation.”

The confirmation vote was taken on 01/24/18. The final result was 50-49, split along party lines (with 2 Republican senators not present). Vice President Pence had to be brought in to break the tie in favor of confirmation. **Casey voted NO** and **Toomey voted YES**.

### **MoC Twitter Action**

**Senator Bob Casey hot topics:** The Senator was atypically quiet on twitter this week, with merely a dozen tweets. He made a statement about the end of the shutdown, but focused most of his output on infrastructure needs. He talked about flooding issues, and problems with getting money for community health centers. He also shared an article about a 12 year old’s suicide and the need to address teen bullying.

**Casey tweet of the week, 01/22/18:** “Republicans in Washington & @realDonaldTrump provoked this shutdown & created this crisis because of their failure to focus on the middle class. I will hold them accountable on the promises they have made”

**Representative Fitzpatrick hot topics:** Representative Fitzpatrick did not share any politics or policy related tweets this week. It was all holidays, remembrances, Eagle Scouts and event promotion.

**Fitzpatrick tweet of the week, 01/26/18:** “Great questions from the Constitution Club at #AnnsChoice @ericksonliving in #Warminster this week!”

**Senator Pat Toomey hot topics:** Senator Toomey had a busy week on Twitter. He responded to the shutdown by pointing fingers at Democrats and using the #SchumerShutdown nickname. He celebrated school choice week and took issue with the renewed discussion of earmarks. He continued to follow Senate Majority Leader McConnell’s orders and is a one man hype machine for the GOP Tax Plan. He shared articles related to the opioid epidemic, and he celebrated the passage of a bill he sponsored to help victims of child pornography.

**Toomey tweet of the week, 01/25/18:** “@HomeDepot has 70 locations in Pennsylvania and thousands of employees. To borrow Home Depot’s slogan: that’s the power of tax reform.” (shared with a [CNBC article](#) about Home Depot’s decision to award bonuses to hourly workers in reaction to the tax bill)

### **Honorable mention, lawmaker**

From @HurdontheHill, Representative Will Hurd (R-TX), 01/24/18: “Folks need to be able to identify #disinformation & when something's wrong. We all know #strangerdanger -- we shouldn't be listening to people on social media that we know nothing about.” (shared with a [PJ Media](#) article about Rep. Hurd urging the US Intelligence community to begin sharing information with private-sector companies like Google and Facebook as a way to combat Russia's efforts to undermine U.S. democracy)

### **Honorable mention, journalist**

From @mattyglesias, Matt Yglesias of Vox, 01/27/18: “The sheer volume of political news seems to stress people out. I feel like a lot of folks would be a lot happier with one newspaper in the morning and one 30 minute newscast in the evening.”

### **Honorable mention, humorous constituent backlash of the week**

On 01/24/18 Senator Toomey tweeted a picture that set off a mini revolt amongst Eagles fans and progressive activists alike. Toomey and Sen. Isakson (R-GA) had a bet related to the Eagles/Falcons playoff game last weekend. The bet was a lunch for staffers; fried chicken for the Toomey staff if Atlanta lost, and cheesesteaks for the Isakson staff if Philadelphia lost. Since we all know the Eagles are going to the Superbowl, Sen. Isakson delivered a giant pile of Chik-Fil-A (the most conservative fast food choice, right?) to Toomey's offices, and our Senator celebrated it with a tweet that included the line “Can't wait to see my Eagles in the Superbowl.” Philadelphia Twitter was NOT amused. Here are some of the most on-point replies:

- From @PatrickPetrell1 - “You never come to Philly, never talk to your constituents here and attack the city all the time. They're not ‘your’ Eagles.”
- From @ToomeyMemes - “You still trying to hop the bandwagon, Pat?”
- From @Blackbunnyfibrz - “Hey, is that the same @ChickFilA that has a long history of anti LGTB advocacy? My gay son and I are not amused. Yet another way you utterly fail to represent your constituents. @IndivisiblePhil @TuesdaysToomey”
- From @Goalie44 - “YOUR Eagles? When did you buy or invest in them? They are anything, BUT your Eagles. Why not ask the players how they feel about you?”
- From @deblmiller - “Pretty sure you have to come to Philly to be an Eagles fan. I smell a chicken!”
- From @boomshockrlockr - “Please. Don't claim Philly when you won't even come here and face your constituents.”

And lastly, someone (unfortunately it was shared as a meme multiple times, thus I do not know to whom I should give the original credit), rewrote the “Fly, Eagles, Fly” song just for our junior Senator:

Lie, Toomey, lie  
“Cause we know that's what you do  
Why, Toomey, why  
Should we ever believe you?  
We deserve so much more  
And now we're keeping score  
When you lie, Toomey, lie  
You can't fool us any more!  
T-O-O-M-E-Y ...LIAR!

## **The Government Reopening, our MoCs respond**

### **Senator Bob Casey, 01/22/18, via his website:**

“Washington Republicans have repeatedly failed to address the nation's challenges on behalf of the middle class. They have been maniacally obsessed w/ tax giveaways to the super-rich & big corporations & decimating Medicaid. Now, 12 Republican Senators have come forward and agreed to work w/ Dems

on a range of issues over a short period of time. I will be pushing for increased funding for our veterans, the opioid crisis, community health centers, disaster funding and basic security for retired coal miners and other workers whose pensions are at risk. We also need a fair solution for the Dreamers. It's time for Senate Rs to use the upcoming period of time to stop genuflecting to the extreme right and their corporate benefactors and work in a bipartisan way to get results for families in Pennsylvania. Republicans in Washington & @realDonaldTrump provoked this shutdown & created this crisis because of their failure to focus on the middle class. I will hold them accountable on the promises they have made."

**Representative Brian Fitzpatrick, 01/22/18, via his website:**

"Today's end to the unacceptable three-day government shutdown should serve as notice to the extreme partisans who allowed their rigid ideology to stand in the way of logical, bipartisan compromise: The American people want bipartisan problem solvers, not uncompromising partisan politicians. Congress must move past the era of short-term, stop-gap continuing resolutions and pass a fully funded budget that addresses our nation's critical priorities. Moreover, Congress must stop setting the dangerous precedent of shutting down the government and refusing to fund the government over non-budgetary items. And finally, members of both parties need to come to the table, in a bipartisan fashion, to address the critical challenges facing our country, including border security and immigration reform. Congress should follow the example of the manner in which the American people run their businesses and manage their families: lead by example to build consensus and solve problems in a dignified, honorable manner. I look forward to being deeply involved in these discussions as a member of the Problem Solvers Caucus. The American people – Democrats, Republicans and everyone in between – deserve nothing less. I will continue to push my bold, bipartisan reform agenda, to include term limits, 'No Budget, No Pay', a balanced budget amendment and more. These are the common sense American principals that will save our country."

**Senator Pat Toomey, 01/22/18, via Twitter:**

"I am encouraged that an interim, bipartisan agreement was reached to reopen our government, fund our military, and provide health care to nine million American children. We found ourselves in this dysfunctional mess because my colleagues across the aisle recklessly refused to govern and held the government hostage on a single issue impacting a select group of illegal immigrants. This is not how decisions about the government's budget should be made. It is well past time for the Senate to return to regular order. Instead of the obstruction of recent years, going forward, Democrats should allow the Senate to debate, amend and pass each of the 12 annual funding bills well before the end of the fiscal year. This would preclude the risk of distracting, disruptive manufactured crises such as the one our Democratic colleagues just caused. #SchumerShutdown"

*Note - Senator Toomey's website says he has a statement on the ending of the shutdown. When you click the "Read More" link under the header to get to the text of the statement, it drops you onto a blank page... which somehow felt appropriate, an accurate reflection of the content of many Toomey statements.*

**The Meehan sexual harassment scandal and #MeToo Movement update**

Last week we reported on the scandal involving Representative Patrick Meehan (R, PA-07) and his secret sexual harassment settlement funded with taxpayer money. On 01/24/18 the following statement appeared on Representative Brian Fitzpatrick's website:

"This Congress must stand with the victims of this harassment and take swift action to root out those who would sexually harass any other person, regardless of position or title," said Fitzpatrick late last year.

"Harassment, in any form, has absolutely no place in the halls of Congress – or any workplace. That's why Congressman Fitzpatrick has supported several bipartisan measures to root out and address this type of misconduct," noted Fitzpatrick's office. "Consistent with that legislation, Mr. Meehan must undergo a comprehensive

investigation with the results to be made public, repay any taxpayer dollars used and, ultimately, face the consequences. Any and all Members of Congress, Republican or Democrat, whom the Ethics Committee's investigation concludes engaged in harassment should resign."

There are two important details to note in this statement. The first is that the opening quote is from 'late last year', well before the Meehan scandal broke. And the second detail is that the lower portion of the statement is from 'Fitzpatrick's office' and not directly from the Representative himself. Thus, the Representative has not bothered to make any sort of public statement from his own mouth to reporters or the public, about the actions of his colleague and ally, Representative Meehan.

On 01/25/18 Meehan announced that he would not seek re-election this year, and would instead retire. This makes him the third Congressman (joining Rep. Ruben Kihuen, D-AZ, and Rep. Blake Farenthold, R-TX) who have announced retirements - not resignations - in the wake of harassment scandals. Farenthold was also a distributor of taxpayer money in a secret harassment settlement. Two earlier Representatives (Trent Franks, R-AZ and John Conyers, D-MI) were forced to resign for similar scandals, but now retirement announcements are the trend for harassers.

***To supporters of the #MeToo movement:*** A graceful retirement is not an acceptable path for these powerful harassers. They should not get to place votes in Congress for the next 11 months. They should not get to keep the perks of office. They should not get to represent their constituents when they showed such a disregard for all women via their actions towards women in their employ. They MUST be forced out of the Congress immediately. If you feel as I do in this situation, please call upon your Congressperson and all the members of the Congressional leadership team, including House Speaker Paul Ryan, to demand their immediate resignation.

## **GOP sabotage plan targets Casey and other red state Senate Democrats**

There are 10 Senate Democrats running for re-election in 2018 in states that Donald Trump won in the 2016 presidential election. They are all vulnerable going into this election. The Republican Party leadership, fearful of the Democratic enthusiasm that was evidenced in a number of 2017 elections, has come up with a diabolical plan to dampen that progressive support for these hard-pressed Democrats. They are bringing a bill, [S. 2311](#) The Pain-Capable Unborn Child Protection Act, to the floor in the coming week, possibly as soon as Monday, 01/29/18. This is a 20 week abortion ban, and it passed the House last year. The Supreme Court has already ruled that bans on abortions made prior to the third trimester are unconstitutional, so this bill is purely political theater. However, because Senator Casey is admittedly anti-choice (though he is an ardent advocate of Planned Parenthood, as he recognizes the value in the services they provide, including the dispersal of contraception and otherwise reducing the need for abortions), a YES vote on this bill will serve to agitate the progressive base who would otherwise be his most active supporters in the coming election.

There is a way to out-manuever the GOP in this situation. Please call Senator Casey and ask him to vote "Present" on S. 2311. This allows him to thread the needle between his own personal moral viewpoint and angering his pro-choice base. And remember, even if Senator Casey does vote YES on this bill, holding this vote and putting him in this situation was a ploy by the GOP designed to hurt him. If you are tempted to withhold support from Senator Casey for such a vote, ask yourself if you want to play into Senate Leader Mitch McConnell's hands like that.

## **Casey in the News**

"Republicans in Congress pushed aside funding for community health centers, pushed aside funding for children's health insurance and pushed aside a lot of important priorities because, guess what, they are obsessed with their tax cuts for rich people and big corporations." - from a 01/25/18 [Centre Daily Times article](#) titled *Sen. Casey urges Congress to fully fund community health centers*

"[She is a] powerful voice in the fight to protect Medicaid for children and families across this country. It is children like Jackson and Henry and families like the Corbins that Washington Republicans should remember as they work to undermine vital protections for families." - the Senator explained his choice of Anna Corbin, a mother of two and a Medicaid recipient, as his guest at next week's State of the Union event, in a 01/27/18 [News Item article](#) titled *Casey to have mom of Medicaid recipients at State of Union*

## **Fitzpatrick in the News**

"I can tell you that, when Robert Mueller was director of the FBI, he was a man of integrity. Again, I can't speak to what is going on now, because we haven't been briefed on it. I am not on the Intelligence Committee." - Rep. Fitzpatrick's response to the question "You served under Robert Mueller when he was director of the FBI. You were an agent at that time. Do you have any concerns about the integrity of the investigation?" in a 01/25/18 [PBS interview transcript](#) from an article titled *Nunes' classified memo 'raises more questions than it answers,' says former FBI agent Rep. Fitzpatrick*

## **Toomey in the News**

"...a power grab of breathtaking audacity and overreach...The proper role of judges is to enforce the law, not to legislate their political beliefs from the bench, which is clearly what is happening in this case. It is my hope that the defendants will appeal this terrible decision to the U.S. Supreme Court." - from a 01/23/18 [Reading Eagle article](#) about the PA Supreme Court's decision to throw out the illegally gerrymandered PA congressional district map, titled *Advocates cheer ruling on Pa. congressional map*

"I don't have a crystal ball." - Sen. Toomey's 01/23/18 response when asked if there will be another government shutdown, from a [Real Clear Politics article](#) titled *Sen. Thom Tillis: "Ask Senator Schumer" If There Will Be Another Shutdown*

"My idea is simple. We go down to the floor. And we move to take up the first appropriation bill. And if that is blocked, if the consideration of the bill is blocked, then we should change the rules so that a simple majority is all it takes to move onto an appropriation bill." - Senator Toomey calling for the end of the filibuster in a 01/24/18 [Washington Times article](#) titled *Pat Toomey calls for nuclear option if Democrats block appropriations bill*

## **Learning about Legislation - Tariffs**

News broke this week that President Trump was going to impose tariffs on foreign made washing machines and solar panels. A tariff is a set amount of money, expressed as a percentage of the cost of the item, that is levied by US Customs when a foreign-produced item is imported into the United States. The real question, though, is whether the President has the right to unilaterally introduce or change a tariff.

The Constitution is clear on this issue. It states, in Article I, "All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills." This is referred to as the Origination Clause, or alternately, the Revenue Clause. And tariffs clearly fall under the category of raising revenue, along with implementation of taxes or assessing fines. Thus, all tariffs should originate in the House of Representatives.

What complicates the issue is that the President holds the power to negotiate treaties with foreign powers. To that end, the Congress often grants the President explicit but limited powers to negotiate tariff levels as a part of treaty-making. As the blog [Perspectives on Trade](#) notes, "the most recent authorization was the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, also known as Trade Promotion Authority, which provided for tariff negotiations in the Trans-Pacific Partnership (TPP) Agreement." The ultimate authority on the tariff still resides in Congress even in that situation, as it is the Senate who has to ratify whatever treaty the President may make.

There are other tariff-related powers that Congress has granted to the President through legislative action, however these can only be used when certain thresholds have been met. Even so, they have not given the President the power to declare a tariff outright. As the [Congressional Research Service white paper](#) on this topic observes, “Congress provided for legislative implementation of international trade agreements under an expedited procedure, so long as certain criteria were met. Over the past few decades, Congress has continued to enact various provisions governing the negotiation and implementation of trade agreements, but has not delegated to the President a general authority to modify tariff rates.”

There is the possibility that this GOP controlled Congress will decide to introduce tariff-related legislation along the lines of what President Trump suggested to avoid any conflict over the Origination Clause. However, if they don't, we should all expect these Trump tariffs to land in the court system.

## Legislation of Interest

### **H.R. 4822: Congressional Accountability Act of 1995 Reform Act**

<https://www.govtrack.us/congress/bills/115/hr4822/text>

This bill was introduced on 01/18/18 by Rep. Gregg Harper (R-MS). It has 33 co-sponsors (20D, 13R) including our own Representative Fitzpatrick. It is pending in multiple House committees, including Ethics, Administration, Ways and Means, and Oversight and Government Reform. This provides a new, detailed plan for changing the way in which the Congress deals with sexual harassment complaints. It includes the creation of an Office of Employee Advocacy, it requires Members of Congress to reimburse Treasury for amounts paid as settlements and awards in cases of acts committed personally by them, and it grants rights and protections to unpaid staffers like interns as well as paid employees. It completely revamps the process for making a complaint, and no longer requires the “cooling off period” or mandatory mediation. This is comprehensive reform, and it is sorely needed.

### **H.R.4884/S. 2313: Defending Elections from Threats by Establishing Redlines Act of 2018**

<https://www.govtrack.us/congress/bills/115/hr4884/text>

<https://www.govtrack.us/congress/bills/115/s2313/text>

The Senate version of this bill was introduced by Sen. Chris Van Hollen (D-CT) on 01/16/18. It has one Republican co-sponsor and it is pending in the Senate Banking, Housing, and Urban Affairs where both PA Senators are members. The House version was introduced on 01/25/18 by retiring Rep. Ileana Ros-Lehtinen (R-FL) on 01/25/18. That bill has one Democrat co-sponsor, and it is pending in (among other committees) the House Foreign Affairs Committee, where Rep. Fitzpatrick is a member. The bills provide a process and reporting structure for branches of the national intelligence apparatus when they find that a foreign power has interfered in US election. Further, it defines penalties for the Russian Federation for interfering, and demands that the President impose them. Lastly, it mandates a report on “deterrence strategies” so that such interference can be avoided in the future. If this is an issue of concern to you, please contact all of your MoCs to ask them to support or co-sponsor this legislation.

### **S. 2330: Earmark Elimination Act of 2018**

<https://www.govtrack.us/congress/bills/115/s2330/text>

This bill was introduced by Sen. Jeff Flake (R-AZ) on 01/23/18. It has 13 co-sponsors (12R, 1D) including Pennsylvania's own Sen. Pat Toomey. It is pending in the Senate Rules and Administration Committee, but neither PA senator is a member of that group. This bill appears to have been composed in response to President Trump's recent assertion that the government negotiation process would run more smoothly if earmarks - the practice of granting well-funded projects one lawmaker or another in exchange for a compromise vote - were reintroduced to the legislative branch. His quote, reported by the [New York Times](#), is “Our system lends itself to not getting things done, and I hear so much about earmarks — the old earmark system — how there was a great friendliness when you had earmarks. Maybe all of you should start thinking about going back to a form of earmarks.” Earmarks were banned by both houses, in a bipartisan move, in 2011. This bill would enshrine that practice as law.

If you are interested in following all of the voting action in Congress, a number of phone apps come in handy. One of the Lower Bucks Indivisible leaders recommends the Countable app. It is available for both Apple and Android phones. You can sign up at [Countable.us](http://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- than phone-oriented, I recommend [Govtrack.us](http://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 to track the action of any Member of Congress, 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...

Gary Garb

Kierstyn Piotrowski Zolfo

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 or experience. Can you help us out? Please email [KierstynPZ@gmail.com](mailto:KierstynPZ@gmail.com) and put "MoCTrack Help" in the subject. Thanks!