

Week ending 02/11/18 - 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 — **31.3%** (+0.7% from last report)

Representative Brian Fitzpatrick — **83.6%** (+0.5% from last report)

Senator Pat Toomey — **90.3%** (-1.4% from last report)

Nate Silver's FiveThirtyEight website assesses the voting records of our MoCs to provide this index. Four votes were scored this week:

- The House and Senate votes on the two-year budget deal
- The Senate vote on the Defense Appropriations bill (the House voted on it last week)
- The House vote on a six-week government funding [continuing resolution](#)

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

Words from our Nation's Founders

"The freedom of the press, as one of the great bulwarks of liberty, shall be inviolable." — [James Madison](#), June 8, 1789

Votes of Interest

H.R. 695: Department of Defense Appropriations Act, 2018

<https://www.govtrack.us/congress/bills/115/hr695>

This bill has had a [tortured procedural history](#), and a vote this week means that its path is not yet over. It first went before the House in May 2017, but back then it was a bill related to fingerprinting and databases. It passed both Houses, but with changes each time, so it had to ping-pong back and forth to get each set of changes voted upon. Most recently, this bill was chosen to have all of the 2018 Defense Appropriations spending tacked on to it. **The most significant part of this spending bill is that it sets Defense funding at a level above that which is mandated by the sequestration, while other programs (like those in the social safety net) do not see commensurate increases.** The bill passed the House on 01/30/18 and moved on to the Senate this week. The bill did not make it to a final vote. It failed in the [cloture](#) vote on 02/08/18, with a 55-44 tally. **Casey voted NO and Toomey voted YES.** Senate Majority Leader McConnell can bring it up for a vote again, should he feel he has gained more support for it.

H.R.1892 – Bipartisan Budget Act of 2018

<https://www.govtrack.us/congress/votes/115-2018/h60>

There are so many potential nicknames for this situation: Yet Another Continuing Resolution (CR), or perhaps Fast Five—the Littlest Shutdown? Regardless of how the parties are spinning it, several facts are unassailable: the government shut down again because one senator got feisty and obstructionist, the GOP-led Congress just failed to pass a long-term funding deal for the fifth consecutive time, and the Dreamers are still in limbo. Let's break down what happened.

We are all getting used to the idea that the leaders in the Congress like to take already-pending bills and then tack on other materials. This bill started out as the "Honoring Hometown Heroes Act," but the Bipartisan Budget was pasted onto it. The additions would fund the government from February 9, 2018, through March 23, 2018. It also added on \$80 billion in disaster recovery assistance, \$6 billion in funding toward opioid and mental health treatment, and \$7 billion in funding and a two-year reauthorization for community health centers among [other provisions](#). The first House vote on this funding measure was taken on 02/06/18, and it passed 245-182. **Fitzpatrick voted YES.**

The bill then moved on to the Senate. On Wednesday, 02/07/18, Senate leaders worked together to negotiate a deal, which they brought to the floor on Thursday. It was cutting it close, as funding would run out that same day. And then Senator Rand Paul (R-KY) took and held the Senate floor, [speaking](#) for

several hours on many issues related to government waste. His diatribe lasted long enough that no vote could be called in the Senate until well after midnight, thus there was a short government shutdown. The Senate finally was able to call their vote at 1:53 a.m. on 02/09/18 and passed the budget deal [71-28](#). **Casey voted YES** and **Toomey voted NO**. There were some changes, so the bill had to go back to the House for another vote.

Upon returning to the House at around 5:00 a.m. on 02/09/18, the bill passed 240-186. **Fitzpatrick voted YES**. And so the government reopened after a five-hour shut down. This is another short-term continuing resolution, so there is only funding for another six weeks. This is the fifth consecutive CR that the GOP-led congress has passed. And there is still no solution for the Dreamers.

On Motion to Table: H.Res. 726: Raising a question of the privileges of the House

<https://www.govtrack.us/congress/votes/115-2018/h53>

In the run-up to the State of the Union Address, Rep. [Paul Gosar](#) (R-AZ) tweeted out a series of statements. In them, he “contacted the U.S. Capitol Police, as well as Attorney General Jeff Sessions, asking that they consider checking identification of all attending the State of the Union address and arresting any illegal aliens in attendance” and went on to add “any illegal aliens attempting to go through security, under any pretext of invitation or otherwise, should be arrested and deported.”

In response to this, Rep. Michelle Lujan Grisham (D-NM) introduced a resolution in the House to censure Rep. Gosar. In that resolution she observes that, “Representative Gosar's comments explicitly targeted the DACA recipients that Members of Congress brought as their guests to the State of the Union...[and] Representative Gosar's actions to inappropriately pressure the U.S. Capitol Police to detain and deport Dreamers, who are staying in the country according to U.S. Department of Homeland Security regulations, intimidated these young people who are already facing fear and uncertainty.” The resolution concludes by noting that all members of the House are supposed to behave in a “manner that shall reflect creditably on the House” and that the House should condemn Rep. Gosar for “his inappropriate actions that intimidated State of the Union guests and discredited the House of Representatives.”

This resolution was brought to the floor on 02/06/18. The motion was to table this resolution, so a “yes” vote means that the legislator believes that this resolution should not even be considered. The vote was strictly party-line. It passed 231-187, so Rep. Gosar, despite threatening people who are in the United States legally, was NOT condemned for his actions. **Fitzpatrick voted YES** along with the rest of his party, to protect Rep. Gosar, despite his boorish and undignified behavior.

MoC Twitter Action

Senator Bob Casey hot topics: In addition to celebrating the Eagles big win, the senator covered a number of topics this week. He continued to sound the alarm about the expired funding for community health centers. He applauded the fact that the bipartisan spending agreement contained within it wording from his bill to provide opioid crisis funding. He and Senators Ron Wyden (D-OR) and Sheldon Whitehouse (D-RI) unveiled a new report on the billions of dollars of corporate stock buybacks that have occurred since the GOP Tax Plan was announced; as they note, “wealthy stockholders are seeing the benefits of this scam at the expense of workers.” And the senator had a lot to say about the Rob Porter scandal, including the president’s inability to meet the bare minimum standard of empathizing with abused spouses and General Kelly’s atrocious mishandling of the situation.

Casey tweet of the week, 02/05/18: “Instead of standing up for consumers, the Trump Admin is working to diminish the @CFPB and surrender to special interests that put Americans at risk.” (shared with a [Reuters article](#) titled *U.S. consumer protection official puts Equifax probe on ice*)

Representative Brian Fitzpatrick hot topics: The representative shared only four tweets this week. One was to celebrate the Eagles’ Superbowl victory, two were retweets of Ripon Advance articles about himself, and the last was a share of his press release calling for the “safe release” of the Democratic response to the Nunes memo.

Fitzpatrick tweet of the week, 02/10/18: “The American people deserve complete transparency in their government, and they have the right to hear from all sides in order to put all facts into context” (shared with his [press release](#) titled *Fitzpatrick Continues Call Transparency, Safe Release of Memos*)

Senator Pat Toomey hot topics: Much of the Senator’s feed was dedicated to the Eagles victory. He also promoted a bill he introduced this week relating to criminal justice reform... of a different sort than one generally means when they use those words. He continued his months-long charm offensive on behalf of the GOP Tax Plan. And he bemoaned the passage of the budget agreement and its “unsustainable fiscal path.”

Toomey tweet(s) of the week, 02/07/18: “Officer Eric Williams's life was senselessly cut short by a violent gang assassin. His murderer essentially received no punishment for his crime, even though eleven out of twelve jurors voted for the death penalty, because he was already serving a life sentence. The lack of any consequence in this case highlights a flaw in our justice system. This is why @SenTomCotton, @JohnCornyn, @SenTedCruz and I introduced Eric's Law, to provide justice for murder victims like Officer Eric Williams.”

Honorable mention, lawmaker

From @RepJayapal, Rep. Pramila Jayapal (D-WA), 02/08/18: “The president's immigration proposals are nothing but more assaults on immigrant communities of color - attempts to drag us backward. We will resist them with everything we've got.”

Honorable mention, journalist

From @Arthur DelaneyHP, of the Huffington Post, 02/09/18: “Awkward to say so but Nancy Pelosi is just plain correct about ‘crumbs’” (shared with his own [HuffPo piece](#) titled *Nancy Pelosi Is Right About Workers Getting ‘Crumbs’ From The Tax Bill*)

Honorable mention, PARODY Account

From @LynBrianFitz, 02/09/18: “You can’t lose credibility if you just say nothing.”

The President won’t approve the release of the Democratic response to the Nunes memo; our MoCs respond.

Last week President Trump quickly approved the declassification of the Nunes memo, a highly partisan and flawed recap of the Foreign Intelligence Surveillance Act (FISA) process that led to the judicial approval of wiretapping the communications of Carter Page, a Trump campaign advisor. Last Friday, the President declined to declassify the Democratic response memo, which had been approved for release by the House Intelligence Committee. Some of our local MoCs responded to this news.

Senator Bob Casey, 02/09/18, via Twitter:

“It’s now clear that @realDonaldTrump released the Nunes memo to attack our law enforcement, further obstruct the Mueller investigation and mislead the American people. What happened to transparency?”

Representative Brian Fitzpatrick, 02/10/18, via his website:

“I strongly urge my colleagues on the House Intelligence Committee to work together, in a bipartisan manner, to assist Ranking Member Schiff in the declassification of his memorandum to remove law enforcement sensitive sources and methods, so that this memorandum can be released to the American people. The American people deserve complete transparency in their government, and they have the right to hear from all sides in order to put all facts into context. As I’ve repeatedly stated: Let the facts be revealed in a manner that is consistent with our national security interests, and let all viewpoints of those facts be heard. End the politics; stick to the facts and to the truth. Then, let the American people be the judge.”

Senator Pat Toomey had no comment.

Casey in the News

“I have pushed for a funding agreement that invests in our infrastructure, funds efforts to combat the opioid epidemic and funds community health centers. Although there is vital work to do on additional issues, this bipartisan agreement will help Pennsylvania families.” — from a 02/09/18 [Wilkes-Barre Times-Leader](#) article titled *NEPA’s congressional delegation reacts to federal budget deal*

“There must be zero tolerance for domestic violence.” — the Senator’s reaction to the Rob Porter White House scandal, from a 02/09/18 article in the [Washington Free Beacon](#)

Fitzpatrick in the News

“Cybersecurity is a complex and serious national and economic security issue for any nation. For years, Ukraine has been under siege from nation-state cyberattacks that have sought to weaken its government and undermine hopes for an open and democratic society. The United States must play an important role in this fight...By not adequately responding and adapting to these cyberthreats in Eastern Europe, our nation is both letting down an ally as well as failing to take proactive steps to protect itself.” — from a 02/09/18 [Ripon Advance](#) article titled *House advances Fitzpatrick bill boosting U.S.-Ukraine cybersecurity collaboration*, covering the House passage of the Ukraine Cybersecurity Cooperation Act of 2017, introduced by Rep. Fitzpatrick and Pennsylvania Democrat Brendan Boyle.

“To see my former agency that I love, I absolutely love the FBI, great people work there, to be injected in this manner is really unfortunate. Uh, I blame the extreme partisans on both sides for this. I think what we really need to do is stick to the facts and to the truth, and um, let the American people judge.” — transcribed from a 02/05/18 interview on Fox news, which can be seen in its entirety [here](#). He discusses the Nunes memo and the separate Democratic response memo.

Toomey in the News

“The budget agreement proposes a badly needed spending increase to strengthen national security, rebuild our neglected military, and honor our commitment to veterans. Unfortunately, it also adds \$131 billion in non-security spending, without any real, meaningful offsetting spending reductions. Our federal government is on an unsustainable fiscal path. This spending spree makes it worse.” — from a 02/09/18 post on his own [website](#), after he joined the minority in a 71-28 vote against the budget bill.

“That sends a message that you should have no confidence this agreement is going to stay in force. We should send the message that this is going to remain a permanent agreement.” — from a 02/07/18 [Politico piece](#) titled *GOP senators push Trump on trade*. The article explains that Toomey was referring to “sunset provisions,” which the Trump administration is trying to insert into the North American Free Trade Agreement (NAFTA) as the trade agreement is renegotiated. Per the article, it would “...automatically terminate the agreement after five years unless all three countries agreed to renew it. Canada and Mexico have both balked at the idea, which has emerged as one of the thornier issues in the talks.”

“The lack of any consequences in this case highlights a flaw in our justice system that this legislation will address.” — from a 02/07/18 [Wilkes-Barre Times-Leader](#) article about Eric’s Law, which Senator Toomey has introduced. The new bill would allow a prosecutor to empanel a new, second jury if a first jury did not unanimously decide on a sentence in a death penalty case.

Learning about Legislation – Motion to Recommit

In past months, this MoCTrack report has highlighted the habit of some legislators, like Rep. Brian Fitzpatrick (PA-08), of voting against their party on a final bill, but with their party on amendments and other motions before the final vote. I had used the generic term “amendment” to cover all of the maneuvering that happens before the final vote, but that is not really precise. The last step that a dissenting party can take before the final vote is a motion to recommit, to send a bill back to committee.

In a 2016 [white paper](#) on the Motion to Recommit process, the Congressional Research Service explains:

“The motion to recommit is often referred to as ‘the minority’s motion,’ because preference in recognition for offering a motion to recommit is given to a member of the minority party who is opposed to the bill. The stated purpose of giving the minority party this right was to allow them to ‘have a vote upon its position upon great public questions.’ House rules protect this minority right...

“Motions to recommit are of two types: ‘straight’ motions and motions that include instructions. A Member offering a ‘straight’ motion to recommit seeks to send the measure to committee with no requirement for further consideration by the House. A Member offering a motion to recommit with instructions seeks to immediately amend the underlying bill on the House floor.

“A motion to recommit may have various procedural effects, including amending an underlying measure, sending it to one or more committees, providing additional time for its consideration, or potentially disposing of the legislation. Due to its inclusion of policy language, the motion to recommit might also have political effects, such as allowing Members to go on record as supporting or opposing a specific policy and creating a comprehensive public record to emphasize the minority party’s differences from the platform of the majority.”

This is clearly a different process than offering a basic change to a bill, which is how one would describe an amendment. Regardless, a motion to recommit is still a vote taken where a legislator has the opportunity to express his or her adherence to a principle or to the will of his or her party. Such motions are rarely, if ever, reported on in the press, so our local legislators usually make motions to recommit straight party line votes.

Legislation of Interest

S. 2389: A bill to amend title 18, United States Code, to require the impaneling of a new jury if a jury fails to recommend by unanimous vote a sentence for conviction of a crime punishable by death

<https://www.govtrack.us/congress/bills/115/s2389>

This bill was introduced on 02/07/18 by our own Senator Toomey. It has three Republican co-sponsors, and it is pending in the Senate Judiciary Committee. This bill would allow federal prosecutors to empanel a second sentencing jury if the first one did not unanimously decide upon a penalty in a death penalty case. On its face this bill does not violate the ‘double jeopardy’ standard, because prosecutors are still not allowed to bring the same charges up for a second time. Nonetheless, it still advantages the state in that they can try a legal tactic in sentencing, and if that does not convince a jury, they basically are awarded a do-over. When people speak of being in favor of criminal justice reform, this kind of change is not what they have in mind.

The flood of new immigration-related bills in the House

The uncertain atmosphere regarding immigration has led to a variety of new bills being introduced. In the Senate, Majority Leader McConnell has indicated that debate will begin Monday, 02/12/18. He has said that he plans to use normal rules. [CNN reports](#), “that now sets up a chance for both sides to offer amendments that will compete for 60 votes -- the threshold to advance legislation in the Senate. If a proposal can garner 60 votes, it will pass the Senate but face an uncertain fate in the future.” That uncertainty is all about the House, and what kind of measures will pass there. In anticipation of that coming debate, a variety of new immigration-related bills were introduced in the House last week, from both sides of the aisle. Here is a sampler of some of these new initiatives

- From Rep. Judy Chu (D- CA), [H.R. 4944](#), a bill that would strengthen “family reunification” provisions in the existing immigration laws
- From Delegate Eleanor Nelson (D-DC), [H.R. 4956](#), a bill to protect people from El Salvador currently here under temporary protected status
- From Rep. Lloyd Smucker (R-PA), [H.R. 4974](#), a bill to make it a criminal offense to overstay a visa

These bills join the list of [Dreamer related legislation](#) under consideration. Expect to see additional immigration-related bills arise as we race toward the March 5, 2018, deadline that President Trump capriciously imposed for addressing the fate of the Dreamers.

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