

Week ending 09/02/18 - PA-08 MoCTrack Report

Tracking Congress in the Age of Trump

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

Senator Bob Casey **30.3%** — (no change from last report)

Representative Brian Fitzpatrick — **83.3%** (no change from last report)

Senator Pat Toomey — **90.4%** (no change from last report)

Nate Silver's FiveThirtyEight website assesses the voting records of our MoCs to provide this index, by comparing any bills where President Trump has stated a position, and comparing the vote of the legislator to that opinion. There were no votes scored in either house this week.

Words From Our Founders

"If the people are capable of understanding, seeing and feeling the difference between true and false, right and wrong, virtue and vice, to what better principle can the friends of mankind apply, than to the sense of this difference."

— [John Adams](#), 1775

Votes of Interest -

On the Nomination PN1413: Charles Barnes Goodwin, of Oklahoma, to be United States District Judge for the Western District of Oklahoma

<https://www.govtrack.us/congress/votes/115-2018/s200>

Last autumn there was a scattering of [news](#) about the fact that President Trump nominated several dozen federal court candidates and a few were judged "not qualified" by the American Bar Association. One of those judges so rated by the American Bar Association is Charles Barnes Goodwin, whose confirmation was voted upon last week. In a [letter](#) to the Senate Judiciary Committee, the American Bar Association explained their rationale for their rating:

The Standing Committee's concerns centered upon Magistrate Judge Goodwin's work ethic and availability to perform judicial duties. As set forth in the Backgrounder, integrity encompasses a nominee's industry and diligence, and professional competence includes a nominee's judgment. Magistrate Judge Goodwin's work habits, including his frequent absence from the courthouse until mid-afternoon, raised doubt for a majority of the Standing Committee's members with respect to Magistrate Judge Goodwin's ability to fulfill the demands of a federal judge appointed under Article III of the United States Constitution. Inaccessibility issues generated concerns about the timely and efficient administration of justice.

It is not surprising that a president who has played over [150 rounds of golf](#) in his 20 months as president would not have deep concerns about a judge's 'work ethic.' The Senate's willingness to discount this consideration is somewhat more troubling. Mr. Goodwin was confirmed in a 52-42 vote on August 28, 2018. No Republicans voted against this nominations, and six Democrats - Donnelly of Ind., Klobuchar and Smith of Minn., McCaskill of Mo., Tester of Mont., Hassan of N.H., joined the Republicans. **Casey voted NO** and **Toomey voted YES**.

MoC Twitter Action

Senator Bob Casey hot topics: The senator started the week with his thoughts on the shooting in Jacksonville and Congressional inaction on common sense gun reform. He shared support for the Americans with Disability Act, and offered thanks to Governor Wolf for urging the Congress to pass the senator's Disability Employment Incentive Act. The Senator closed the week with an extended thread about Education Secretary DeVos's new campus assault proposal, and the reasons for his strong opposition to it. He continues to leave a tweet in support of Special Counsel Mueller pinned to the top of this feed.

Casey tweet of the week, 08/26/18: “Majority Leader McConnell and Speaker Ryan control what comes to the floor in the Senate and House. They’ve repeatedly stood in the way of action on gun violence. This is inaction must end”

— one tweet that was part of a longer [thread](#) in response to the mass shooting in Jacksonville

Representative Brian Fitzpatrick hot topics: The representative only shared two tweets this week, and one was a retweet. His only original content was about a visit to a local Bucks county business. The retweet was a political journalist noting that the representative was present at a ceremony at the Capitol honoring Senator John McCain.

Fitzpatrick tweet of the week, 08/28/18: “My small business visit to Stacks Co. in #Doylestown may have been the most impressive yet. These young, courageous entrepreneurs represent the future of our economy and the future of our country. I thank them for their vision and passion.”

— shared with an [image](#) of the Representatives and members of the staff at Stacks Co.

Senator Pat Toomey hot topics: All of the content from Senator Toomey for this week revolved around Trump’s tariffs and the damage they are doing to area industry. He shared a [Times Online](#) article about how hundreds of Beaver County workers at Shell Chemicals Appalachia may be laid off due to delays in plant construction caused by the inability to get a steel tariff exemption. He also celebrated the decision to offer an exemption on newsprint tariffs and its expected salutary effect on the newspaper publishing industry.

Toomey tweets of the week, 08/29/18: “American companies must be allowed to adequately and fairly source materials, especially when those items are not produced in sufficient quantities domestically. As such, I’m pleased to see the U.S. International Trade Commission has unanimously ruled against the administration’s harmful tax on newsprint imported from Canada. An unnecessary tax on newsprint could have been a death knell for many jobs in the newspaper and publishing industries, both of which are already facing significant challenges. The ITC’s ruling to end this financial burden on publishers across Pennsylvania is the right one.”

— shared with a link to the senator’s full statement, titled [“Toomey Statement on ITC Newsprint Ruling”](#)

Honorable mention, lawmaker

From @RepAdamSchiff (D-Calif) on 09/02/18: “Republicans fell all over themselves to give trillions of dollars of tax cuts to the wealthy and to big businesses, and they want to give them even more. But when it comes to working people, retirees, and the disabled, suddenly deficits matter again.”

— shared with a [tweet](#) about President Trump’s decision to NOT give almost 2 million federal employees a cost-of-living-adjustment to their salaries for the coming year

Honorable mention, media

From @BenjaminWittes, co-founder of Lawfare, on 09/02/18: “There is one important thing that we should all try to retain from the current moment, however—and I think this is a critically important thing that I hope will survive the current struggle. That is a certain mutual respect and admiration born of common tectonic values. I would hope that we would all retain in future disagreements a deep awareness that the people we are disagreeing with are people with whom we shared a foxhole when democratic government itself faced a threat. I very much hope I will never be able to disagree—however intensely—with such people again without a keen understanding that on the most important values, we share a core. And I hope that will cause me

to engage with them more respectfully than I might otherwise have done... **I will never forget the people who stared this moment in the face and made peace with it. I will never forget those who decided to tolerate it because of tax cuts, or judges, or to own the libs.**"

— from part of a much longer [thread/essay](#) that Wittes shared in response to a tweet from Russian activist and Putin-adversary Garry Kasparov's [tweet](#), which read "Those who stand against Trump will move on to many different things when he's gone, but those who still support him should never be forgotten or forgiven."

Honorable mention, constituent response

From @BakeOnTrough on 08/27/18: "Bob Casey. The one who isn't embarrassing."

— made in response to Senator Casey's [tweet of the week](#), about the GOP's unwillingness to take action on common sense gun reform

Casey in the News

Courtesy of contributor Kathy Sites

"I am pleased that the Senate has finally confirmed Judge Susan Paradise Baxter for the vacant seat on the Western District. This seat, which is the only federal seat in Erie, has been vacant for over five years. I am confident that Judge Baxter will serve the Commonwealth honorably, as she has for over two decades. Judge Baxter has served as a federal magistrate judge for the Western District since 1995 and will bring this wealth of experience in the federal system to her new seat. In her 23 years of service to the people of Erie, Judge Baxter has shown she possess the integrity, intellect and independence required to be an outstanding federal district court judge."

—from the [GoErie.com](#) article regarding the Senate confirmation of Susan Paradise Baxter to a long-vacant US federal judgeship titled "[Erie's Baxter named U.S. district judge](#)"

"John McCain was a patriot who served our nation with honor and distinction as a Navy pilot and public official. Today, we come together to mourn his loss, to express gratitude for the sacrifices he made for America and to extend our condolences to his family. As a servicemember, he experienced the horrors of war and captivity and still returned with a desire to continue serving our nation. Throughout his time in the House of Representatives and more than 30 years in the Senate, John McCain was a tireless fighter for his principles and a champion of U.S. servicemembers. We have all benefited from Senator McCain's lifetime of service. My thoughts and prayers are with his family during this difficult time."

— from the senator's official statement as quoted by [WFMZ Allentown](#) article titled "[Pa. senators, others comment on death of Sen. John McCain](#)"

Fitzpatrick in the News

EDITOR'S NOTE: There were no articles in this week's traditional media outlets (online or in print) that directly quoted Representative Fitzpatrick about policy or issues that were not directly related to the coming election. There was, however, one article ABOUT Rep. Fitzpatrick that made a national news outlet. For more information, please see the [Huffington Post](#) article titled "[Embattled Republicans Rely On Astroturf Group To Shore Up Social Security Bona Fides](#)."

Toomey in the News

Courtesy of contributor Elayne Baker

“NAFTA was a tri-party agreement only made operative with legislation enacted by Congress. Any change, such as NAFTA’s termination, would require additional legislation from Congress.”

— from a [Wall Street Journal](#) article titled “[No Nafta Redo Without Canada](#)”

“...these companies and their workers will still be at a competitive disadvantage as they will be required to pay tariffs instead of being able to freely buy the materials needed for their operations.”

— from a [Pittsburgh Post-Gazette](#) article titled “[Trump eases restrictions on some metal imports, aiding cracker plant construction](#)”

“The decision to impose taxes under the false pretext of national security has significantly diminished the ability of domestic manufacturers to provide affordable finished products to American consumers... I remain concerned that the [commerce department’s] exclusion process is unnecessarily burdensome, resulting in the delay of timely determinations for American companies seeking financial relief.”

— from a [Pittsburgh City Paper](#) article titled “[Sen. Pat Toomey highlights Pa. businesses hurt by tariffs in letter to Trump administration](#)”

“[The Cambria County Drug Coalition] is active and eager to achieve measurable reductions in lifetime and 30-day drug and alcohol prevalence in youth through priority prevention efforts. These efforts include increased enforcement of and education about underage drinking and binge drinking for high school students; development and distribution of age-appropriate information about underage alcohol and drug use through a coalition website, social media, brochures, and forums; and increasing the capacity to support robust tobacco prevention efforts through coalition healthcare partnerships.”

— an excerpt from a letter to the U.S. Department of Health and Human Services composed by the senator, as reported in the [Johnstown Tribune-Democrat](#) article titled “[Cambria County Drug Coalition gets grant for \\$125,000](#)”

What to expect in September

The House is coming back from a long break and while the Senate stayed in session in August, has a packed month in front of them. Here’s what to look out for:

- **Supreme Court nominee Brett Kavanaugh’s hearings** - The Senate Judiciary Committee hearings for Brett Kavanaugh will begin on Tuesday, September 4th. There are any number of progressive concerns about Mr. Kavanaugh, from his perspective on executive immunity to the fact that most of the records of his time in the executive branch have not been released for the Judiciary Committee to review. But, despite these valid issues, there is absolutely no way for the Democrats alone to either forestall or reject this nomination. Even if every Democrat voted against Mr. Kavanaugh (and that is not likely), with the 50-49 margin of Republicans to Democrats after the death of Sen. McCain, Vice President Pence could place the tie breaking vote. For more details on the coming hearings, please see this concise but thorough [ABC News](#) article.
- **Fast-tracked judicial nominees for other federal court positions** - Earlier this year Senate Majority Leader McConnell cancelled the August break for the Senate. This was

a political tactic designed to make campaigning difficult for the ten Democratic incumbent senators who are running for re-election in states that Trump won in 2016. Late last Tuesday night, Minority Leader Chuck Schumer and McConnell made a deal that would allow Senators go home and campaign... but the price was high. According to [VOX](#), Schumer agreed to "...fast-track the confirmations of 15 Trump-nominated judicial picks. Seven federal district court judges were confirmed that day, and eight were put on the docket for confirmation next week."

- **Conference and votes on the minibus funding bill** - As reported in last week's MoCTrack, the Senate passed H.R. 6157, the "minibus" spending bill that covers about 60% of the government's overall discretionary spending in areas like Defense, Education, Health and Human Services and Veterans Affairs. The versions passed in the House and the Senate contains significant differences, which require a [conference committee](#) between the two houses. They have until September 30th to iron out the differences, and pass the bill through both houses or else we face another government shutdown. This [article](#) in *Bloomberg Government* provides additional details, for those interested in learning more.
- **Tax reform 2.0** - Because the GOP Tax Plan that passed in December with its massive benefits to corporations and the wealthiest Americans is not enough for the GOP, a second wave of tax 'reform' is bubbling its way through the GOP. According to the Editorial Board of *USA Today*, this new phase of the GOP tax plan will "...make permanent the temporary tax cuts for the middle class that were part of last year's measure but are scheduled to expire in 2025; expand tax-deferred accounts, such as 529 college savings plans [and] allow companies to write off more of their startup costs... Taken in isolation, these are not horrible ideas. What's telling is that they could have been included in last year's tax measure but weren't." There is no bill on this plan, yet. For more on this issue, please see the *USA TODAY* piece titled "[Tax Reform 2.0 robs even more from your future.](#)"
- **#MeToo legislation** - Unlike the other items on this list, which we will definitely see in the coming weeks, this one is more of a long shot. Earlier in this legislative session the House passed two #MeToo related measures; one revamps a deeply flawed process for dealing with congressional harassment claims, the other would force legislators to pay any settlements out of their own pockets, instead of foisting the price of their misbehavior onto taxpayers. [Broadly](#) reports that "...this latter measure has proven most contentious in the Senate, according to reports, especially among Republican men, who were holding up Senate negotiations over the chamber's own version of the #MeToo legislation." There are efforts, however, to attach the provisions contained in the two bills that the House passed into the "minibus" spending bill, which is a must-pass legislative package (assuming legislators want to avoid a shutdown right before the election).

Legislation of Interest:

S. 3388: Ensuring Coverage for Patients with Pre-Existing Conditions Act

<https://www.govtrack.us/congress/bills/115/s3388/text>

This bill was introduced by Sen. Thom Tillis (R-N.C.) on August 23, 2018. It is pending in the Senate Health, Education, Labor, and Pensions Committee where Sen. Casey is a member, and it has 11 co-sponsors, all R. In the coming week, a [lawsuit](#) attacking the Affordable Care Act and protections for people with pre-existing conditions is going to make it into the courtroom. That suit, pending in a federal court in Texas, has the backing of 20 states with Republican dominated governments, as well as the Trump Administration. This newly introduced bill is an attempt to proactively address the issue of pre-existing condition protection, by sintering provisions to protect people onto a different piece of healthcare-related legislation, the Health Insurance Portability and Accountability Act (HIPAA). Many people are familiar with HIPAA (pronounced "hippa") because it contains rules about keeping medical information private and it is the reason

why we all have to fill out so many release forms when our doctor wants to get medical records from another healthcare provider. This newly introduced bill would amend HIPAA to add several sections, but most importantly:

A group health plan and a health insurance issuer offering group or individual health insurance coverage **may not establish rules for eligibility** (including continued eligibility) of any individual to enroll under the terms of the plan or coverage **based on any of the following health status-related factors** in relation to the individual or a dependent of the individual: (1)Health status, (2)Medical condition (including both physical and mental illnesses), (3)Claims experience, (4)Receipt of health care, (5)Medical history, (6)Genetic information, (7)Evidence of insurability (including conditions arising out of acts of domestic violence), (8)Disability, (9)Any other health status-related factor determined appropriate by the Secretary....

...A group health plan, and a **health insurance** issuer offering group or individual health insurance coverage, **may not require any individual** (as a condition of enrollment or continued enrollment under the plan) **to pay a premium** or contribution which is greater than such premium or contribution for a similarly situated individual enrolled in the plan **on the basis of any health status-related factor** in relation to the individual or to an individual enrolled under the plan as a dependent of the individual.

By entering these protections - blocking insurance companies from dumping patients, denying coverage or raising prices on people with pre-existing conditions - onto a deeply popular and important piece of legislation like HIPAA, these Republican legislators are attempting to offer a safety net, should the Trump-supported lawsuit prove successful. The bill's sponsor, Sen. Tillis, made this point in a [statement](#) upon the introduction of the bill, noting:

There are strong opinions on both sides when it comes to how we should overhaul our nation's broken health care system, but the one thing we can all agree on is that we should protect health care for Americans with pre-existing conditions and ensure they have access to good coverage. This legislation is a common-sense solution that guarantees Americans with preexisting conditions will have health care coverage, regardless of how our judicial system rules on the future of Obamacare.

This bill, and the GOP position on healthcare and pre-existing conditions, are likely to be a key issue in the coming election. These articles are recommended if you would like more information on the issue:

- For details on the numbers of people who may be impacted by changes to protection for people with pre-existing conditions, please visit the *BenefitsPro* article titled "[Impact of pre-existing-condition coverage lawsuit depends on where you live](#)"
- For details on the lawsuit that will be going into the courthouse next week, please see the *Texas Observer* article titled "[Trump Sides with Ken Paxton to Argue Pre-Existing Conditions Protections are Unconstitutional](#)"
- For an analysis of how the GOP is dealing with pre-existing conditions as an issue in the coming election, please see the *Huffington Post* article titled "[GOP Senate Candidates Are Scrambling To Rewrite Their Record On Pre-Existing Conditions](#)"

H.R. 6680: To provide for the processes and procedures for the granting, denying, or revoking of access, or eligibility for access, to classified information

<https://www.govtrack.us/congress/bills/115/hr6680>

This bill was introduced by Rep. Jim Langevin (D-R.I.) on August 24, 2018. It is pending in the House Oversight and Government Reform Committee, and has two Democrats as co-sponsors (including Rep. Adam Schiff of California, ranking member of the House Intelligence Committee). Last week's MoCTrack contained details about a Senate effort to protect former members of the United States intelligence community from having their access to classified materials stripped because of a disagreement with President Trump's policies or behavior. That effort was stymied

by procedural means, as it was an amendment to a pending bill, and the amendment never even made it to a vote for inclusion in the bill. That bill has since been voted upon and passed, leaving the amendment in limbo. This trio of House Democrats is using a different tactic, and simply introducing the measure as a separate piece of legislation. Rep. Langevin [explains](#):

President Trump has shown an alarming tendency to attack members of our intelligence and law enforcement communities when he believes it will be to his political benefit. His recent decision and subsequent threats to revoke the clearances of current and former national security officials is an unconscionable abuse of power, and it underscores the need to protect this process from further political influence. This legislation takes important steps to ensure security clearance decisions are based solely on national security considerations, not political bias or retribution.

If you feel that the security clearance of distinguished intelligence community members should NOT be reliant on the whims of the President, please consider calling your Congressman to support this bill.

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!