

Week ending 09/23/18 - 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 **31.2%** — (+**0.9%** from last report)

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

Senator Pat Toomey — **90.5%** (+**0.1%** 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 was one vote in the Senate this week that was scored, related to the opioid crisis.

Words From Our Founders

"He who is void of virtuous attachments in private life is, or very soon will be, void of all regard for his country. There is seldom an instance of a man guilty of betraying his country, who had not before lost the feeling of moral obligations in his private connections."

— [Samuel Adams](#), 1775

Votes of Interest -

H.R. 6157: Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019

<https://www.govtrack.us/congress/votes/115-2018/s212>

This is another one of three "minibus" bills that needed to pass if we are to avoid a government shutdown on October 1, 2018. Last week we reported on the passage of the first of the three bills, which included energy and veterans spending (and President Trump signed that first bill on Friday). As a reminder, [The Hill](#) laid out the groundwork for how this process works:

Congress must pass funding bills to cover 12 areas of spending each year, or pass a continuing resolution (CR) for those areas to keep current levels in place when the new fiscal year begins. Failure to do so results in a government shutdown. Congress hopes to pass the 9 bills in three minibus packages alongside a CR for the three remaining bills, which include controversial items such as President Donald Trump's proposed border wall.

This new bill, according to Sen. Richard Shelby (R-Ala.), contains [\\$675 billion](#) for defense. The Republican Policy Committee [summary](#) breaks that down further:

- \$144 billion for military personnel
- \$245.9 billion for operations and maintenance
- \$145.7 billion for procurement
- \$1.557 billion for "revolving and management funds"
- \$34.4 billion for base requirements, cancer research, traumatic brain injury and psychological health research, and sexual assault prevention and response
- \$68.1 billion for Global War on Terrorism operations
- Additional funds for "general provisions"

Much like the first 'minibus' bill, this second bill had passed the House in June, and then a different version passed the Senate in August, leading to a conference report. The vote that took place on September 18, 2018 was the Senate voting to accept the conference report. The final vote was 93-7. **Casey voted YES** and **Toomey voted NO**. This now goes to the House for a vote on the conference report. And there is still one more minibus bill and a CR to pass if we are to avoid a shut down at the start of next month.

H.R. 6: SUPPORT for Patients and Communities Act

<https://www.govtrack.us/congress/votes/115-2018/s210>

This bill is a part of a large package of legislation passed by the House in June to address the opioid crisis. Once the big pile of bills passed the House, the Senate merged a number of them into this effort. The summary itself is quite lengthy, but can be found [here](#). The shortest possible description is that this “includes Medicaid, Medicare, and public health reforms to combat the opioid crisis by advancing treatment and recovery initiatives, improving prevention, protecting communities, and bolstering efforts to combat illicit synthetic drugs like fentanyl.” The vote on this combined package was taken on September 17, 2018 and it passed the Senate, 99-1. **Casey voted YES** and **Toomey voted YES**. The bill will now return to the House so that they can vote on the changes.

At the end of the week, news broke that there is a plan to include a bailout for pharmaceutical corporations in the version that the House will vote upon. *The Hill* [reports](#):

Lawmakers are considering adding a provision easing costs on drug companies to an opioid package currently being negotiated. The powerful pharmaceutical industry has been pushing for months to roll back a provision from February’s budget deal that shifted more costs onto drug companies, and they sense they have a chance to attach the change to the bipartisan opioid package currently moving through Congress...At issue is a change from February’s budget deal that shifted billions more costs onto drug companies in Medicare’s coverage gap, known as the donut hole. Other provisions, including some favored by Democrats, are also in the mix as part of a deal to undo, or at least partially roll back, that change.

When that news came out, Sen. Ron Wyden (D-Ore.), issued a [statement](#) that read, “It would be unconscionable for Republicans to airdrop a bailout for Big Pharma into a piece of legislation that spends less than half of that amount to curtail the opioid epidemic. This handout to price-gouging pharmaceutical manufacturers will increase premiums on seniors in Medicare and do nothing to lower the cost of their drugs at the pharmacy counter.” This is a developing story, and we will continue to track it.

S. 2554: Patient Right to Know Drug Prices Act

<https://www.govtrack.us/congress/votes/115-2018/s209>

This is an interesting bill and a rare case of finding overlap between President Trump and senators of both parties. Right now there are rules in place that forbid pharmacists from telling a consumer when their copay is more expensive than the out-of-pocket costs for a drug. This is referred to as a pharmacist gag clause. When a consumer pays more for a drug in a copay than the actual cost, the profit is usually pocketed by a pharmacy benefit manager (PBM), a middleman company employed by health insurance corporations to manage prescriptions. In a floor speech on this bill, Sen. Claire McCaskill (D-Mo.) [said](#) that Americans pay around \$135 million more than they needed to each year because of these gag clauses. And Sen. Debbie Stabenow (D-Mich.) [said](#), “It’s wrong that a person overpays for their medication simply because their pharmacist is not allowed to tell them they could pay a lower price with cash instead of insurance.” President Trump has also expressed his support for this effort, and this is the one bill that was included in the 538 scoring this week. In a vote that occurred on September 17, 2018, this passed, 98-2. **Casey voted YES** and **Toomey voted YES**. This now goes to the House for consideration.

S. 2823: Music Modernization Act

<https://www.govtrack.us/congress/bills/115/s2823>

This is a bill that will completely rework the music copyright system, and bring the process out of the 20th century and into a world where much music is listened to via streaming. *Billboard* [explains](#) how it works:

The bill creates a blanket mechanical license and establishes a collective to administer it; reshapes how courts can determine rates, while making sure future performance rates hearings between performance rights organizations BMI and ASCAP and licensees rotate among all U.S. Southern District Court of New York Judges...creates a royalty for labels, artists and musicians to be paid by digital services for master recordings created prior to Feb. 15, 1972, while also eliminating a Digital Millennium Copyright Act of 1998 carve out for "pre-existing digital services" like Sirius XM and Music Choice that allows for certain additional considerations not given to any other digital service when rates are set; and codifies a process for Sound Exchange to pay producers and engineers royalties for records on which they have worked.

The bill passed by [unanimous consent](#), so while no vote was physically taken, we know this effort has the support of both Senators **Casey** and **Toomey**. A similar effort passed the House in April (also unanimously), so this will go to conference to work out the small differences between the two versions.

MoC Twitter Action

Senator Bob Casey hot topics: Much of the senator's tweeted content this week revolved around the accusation of sexual assault against SCOTUS nominee Brett Kavanaugh. Each time a new development occurred or a new demand was issued from the Judiciary Committee, the senator expressed his support for Dr. Ford and his desire to see a full FBI investigation. On other topics, the senator shared messages from a colleague and the Children's Hospital Association, thanking him for his support of the Children's Hospitals Graduate Medical Education program and congratulating him on the passage and enactment of the same. He ended the week by sharing an alert about a Trump Administration rules change that would keep people who have accepted public assistance from getting visas and green cards. In his words, "this mean-spirited plan is an abomination."

Casey tweets of the week, 09/22/18: "It's shameful that Senate Republicans are now bullying Dr. Ford. There should be a proper FBI background investigation and then a hearing instead of this unnecessary rush to vote. These same Republicans refused to hold hearings for 293 days for an open Supreme Court seat under President Obama. Now they're denying Dr. Ford a chance to testify because they refuse to wait a few days."
— [tweeted in response to the evolving situation regarding Dr. Christine Blasey Ford coming to Washington to testify, and the ultimatums issued by Senate Judiciary Chair Chuck Grassley](#)

Representative Brian Fitzpatrick hot topics: The representative shared a pair of tweets about an American-Israeli murdered by a Palestinian earlier this week. He retweeted a message from the Pennsylvania Turnpike about the completion of the I-95 Project. He closed the week with an announcement that the Congressional Gold medal had been granted to a Yardley veteran.

Fitzpatrick tweet of the week, 09/17/18: "The Palestinian Authority must end its horrendous practice of rewarding terrorists for killing Jews. Incentivizing terror and murder will never lead to peace. The United States will continue to stand with Israel. ->"
— [shared with a link to a statement on the same topic from the representative's office](#)

Senator Pat Toomey hot topics: Excluding holiday messages, the senator focused on three topics this week. He shared an alert about a shooting in a Masontown magistrate's office in Fayette County. There was a pair of statements about the opioid crisis in the run up to the Senate vote on the opioid package. At the end of the week the senator shared another pair of tweets that relate to pending legislation he authored on the topic of correctional officers and violence against them off-hours. This was prompted by the recent guilty verdict rendered on the man who shot the officer and inspired Toomey's bill.

Toomey tweet of the week, 09/21/18: “Correctional officers should be able to defend themselves from the criminals who wish to attack them. Modifying existing rules to permit them to carry a firearm while they commute to and from work would certainly go a long way to achieving this goal.”

— shared with a link to a [May 2017 statement](#) from the senator’s office about the bills he introduced on this topic

Honorable mention, lawmaker

From @SenBlumenthal (D-Conn.) on 09/22/18:

“Republicans show why sexual assault is still one of the most underreported crimes: courageous survivors who do come forward are bullied by those in power.”

— shared as part of a [longer thread](#) in support of Dr. Ford

Honorable mention, media

From @BenjaminWittes, editor and co-founder of the Lawfare Blog on 09/23/18:

“If the Senate wants to establish norms and expectations about what it will and won’t do in nominations, I’m all for that. I wrote a whole book arguing for it, in fact. But you can’t refuse to hold a hearing for one highly qualified nominee and then insist for another that the standards within a hearing that you reserve the right not to hold at all comport with the norms of a judicial proceeding.”

— shared in response to comments made about his recent article in *The Atlantic* titled [“Kavanaugh Bears the Burden of Proof”](#)

Honorable mention, constituent response

From @Holly303now215 on 09/21/18:

“How much is the NRA paying you for that tweet?
#ToomeyIsTheMostHatedSenator
#ToomeyNeverListensToHisConstituents
#StopKavanaugh”

— sent in response to the senator’s tweet of the week, and shared with a GIF of Hermione (from Harry Potter) saying “Excuse me, I have to go and vomit.”

Casey in the News

Courtesy of contributor Kathy Sites

“Dr. Christine Blasey Ford has bravely come forward and deserves to be heard. What she describes in her interview is a violent sexual assault, which should be disqualifying for a nominee to a lifetime appointment to the Supreme Court. The Judiciary Committee should postpone Thursday’s vote and conduct a full review of this matter.”

— from a [PennLive](#) article titled [“Accusations against Kavanaugh are ‘disqualifying,’ Sen. Bob Casey says”](#)

“I will continue to fight for Title I funding increases for economically distressed districts. We also have to keep Betsy DeVos from working to use public money to fund private, for profit charter schools... Having visited all the counties in Pennsylvania since the last election and now on a second tour having revisited nearly 50 of the 67, I note that all of them have challenges, struggles, but also successes that need to be celebrated. These stories inform how I vote. I think the two biggest issues going forward are raising wages and preserving healthcare. I think raising wages may be the biggest challenge of our time.”

— the senator's answer in response to questions posed at a meet and greet in the Wilkinsburg suburb of Pittsburgh, as reported in the [Pittsburgh Courier](#) article titled "[Pa Senator Bob Casey stumps in Wilkinsburg, gets Mayor Garrett's backing](#)"

"I think are we all not doing enough to highlight the issue and make sure people are aware of it because part of the prevention starts with just making it an issue and talking about the problem and encouraging others to be part of the solutions."

— the senator's comments about sexual assault on college campuses, and a new program at a local university, as reported in the East Stroudsburg University publication *The Stroud Courier* article titled "[ESU Works to Combat Sexual Assault](#)"

"We believe that the Republican Congress and this administration are taking us in the wrong direction. We believe that. We want change and we're gonna get change in November."

— an excerpt from the senator's speech at a Friday rally from Allentown's *WFMZ 69 News* article titled "[Obama visits Philadelphia, touts 'blue wave'](#)"

"Judge Kavanaugh became objectionable even before his record — the full record — was on the table."

— the senator's comment on the rapidly evolving situation in the Brett Kavanaugh SCOTUS nomination, from the *Philadelphia Inquirer* article titled "[Kavanaugh nomination: Bob Casey wants FBI investigation; Pat Toomey wants a hearing and a vote](#)"

Fitzpatrick in the News

EDITOR'S NOTE - most of the Fitzpatrick related coverage in the news revolved around campaign topics, like [a race-baiting ad](#) Fitzpatrick released, campaign [money from convicted felon Elliott Broidy](#) that Fitzpatrick has not returned, [two ads that political fact-checkers marked as "false" or "misleading"](#) and him [showing up 90 minutes late](#) for a scheduled forum with Democrat Scott Wallace. Very little coverage related to actual policy concerns.

"This road carries 40 percent of our nation's gross domestic project [sic]."

— the representative's observation, as reported by the *Burlington County Times* article titled "[I-95 and PA Turnpike linked, more construction coming](#)"

"This vital program benefits millions of Americans in innumerable ways, from promoting recreational activity to contributing to our nation's robust economy, along with furthering environmental protection... as we rapidly approach the deadline for this crucial program, which affects 98 percent of counties here in the United States and contributes to an economy that encompasses one out of 15 American jobs, I urge this Congress to take up full permanent funding for the Land and Water Conservation Fund."

— excerpts from the representative's floor speech, as reported in the *Ripon Advance* blog post titled "[Fitzpatrick seeks permanent authorization of Land and Water Conservation Fund](#)"

"It's been a top legislative priority for me in Congress since day one. The epidemic has hit all corners of our country and has hit us harder than most."

— from the *POLITICO* article titled "[Republicans cast opioid bill as their health care achievement](#)"

Toomey in the News

Courtesy of contributor Elayne Baker

"This is the responsibility of the Senate now, and this is where this is going to be conducted. I will look and listen very closely to whatever happens at a hearing, should it happen next week, but then, probably we should go ahead and vote."

— the senator's comments on the allegations of sexual assault made against SCOTUS nominee Brett Kavanaugh, as reported in the *Philadelphia Inquirer* article titled "[Kavanaugh nomination: Bob Casey wants FBI investigation; Pat Toomey wants a hearing and a vote](#)"

"It's a completely dishonest gimmick to spend \$7 billion above the cap that was agreed upon, and it's really irresponsible."

— the Senator explains his NO vote on one of the three "minibus" spending bills in the *New American* article titled "[Senate Passes \\$854B Spending Bill Funding Everything But Border Wall](#)"

"I think this is an important step forward, really one of many, but an important step forward in fighting this horrendous opioid crisis... The government buys more opioids than any other entity in the world and as such has a unique responsibility to at least make sure that the opioids that the government is buying for people is being administered in an appropriate way. I was shocked to learn that you could have an overdose of an opioid, survive the overdose and then within a very short time a doctor could prescribe that very same opioid. I think that is a clear shortfall we will correct in this legislation."

— from the *WTF* article titled "[Toomey lauds Senate's passage of sweeping opioid crisis legislation](#)"

"The murder of Lieutenant Osvaldo Albarati underscores the danger that correctional officers face every day. With this verdict, justice was served for Lt. Albarati's family, but more can and should be done to try and prevent future tragedies like this one. Correctional officers should be able to defend themselves from the criminals who wish to attack them. Modifying existing rules to permit them to carry a firearm while they commute to and from work would certainly go a long way to achieving this goal."

— the senator's comments about the 2013 murder of a corrections officer who inspired a trio of bills to assist law enforcement, from the *PR Newswire* article titled "[Lead Conspirator in Correctional Officer's Murder Convicted on 6 Counts](#)"

Legislation of Interest:

S. 3443: A bill to amend the Consumer Financial Protection Act of 2010 to provide procedures for guidance issued by the Bureau of Consumer Financial Protection

<https://www.govtrack.us/congress/bills/115/s3443>

This legislation was introduced by Sen. Orrin Hatch (R-Utah) on September 17, 2018. It is pending in the Senate Banking, Housing, and Urban Affairs Committee, where Sen. Toomey is the chairperson of the Financial Institutions and Consumer Protection sub-committee, so this will fall under his direction. It has one Republican co-sponsor, Sen. James Lankford of Oklahoma. This bill has a short name "Give Useful Information to Define Effective Compliance Act (GUIDE Compliance Act)" and it is yet another attempt by the GOP to peel away and lessen the effectiveness of the Consumer Financial Protection Bureau (CFPB). According to Senator

Hatch's [statement](#), this bill "...requires the Director of the CFPB to issue guidance, including written interpretative rules, bulletins, statements of policy, and frequently asked questions to help facilitate compliance; [and] mandates that the CFPB publish in the Federal Register the definitions, criteria, timelines and process for issuing each type of guidance the Bureau shall provide..." So, even as the Congress seeks to limit the CFPB's budget and staffing, this bill would introduce massive reporting, communication and compliance responsibilities on the agency. And instead of those new tasks being designed to protect consumers, they have been molded to protect corporations instead. As if to prove that point, this bill has the support of the Mortgage Bankers Association, American Land Title Association, National Association of Mortgage Brokers, and the National Association of Home Builders amongst dozens of other industry associations. Please consider contacting Senator Toomey to express your feelings about this bill.

Senator Benjamin Sasse (R-Neb.) Ethics passage

A package of bills was introduced by Sen. Sasse on September 17, 2018. The bills are pending in a variety of committees. This looks to be a direct reaction to Sen. Elizabeth Warren's (D-Mass.) recent introduction of a [massive anti-corruption bill](#). Here is what Sen. Sasse has proposed:

- [S. 3450](#) - All candidates for president and vice president would have to publicly disclose their tax returns
- [S. 3451](#) - No members of Congress could trade stocks, commodities or other investment products
- [S. 3452](#) - Family members of government officials (including department heads) would be prohibited from fundraising from foreign entities
- [S. 3453](#) - This would change the rules related to how Congress handles harassment and abuse claims, and would mandate public disclosure and reimbursement of payments for awards and settlements
- [S. 3454](#) - This would implement a lifetime ban on all lobbying activities by Members of Congress after they leave office

After introducing these bills, Sen. Sasse [stated](#), "Everybody talks about draining the swamp but nobody actually does it. Both parties talk a big game on the campaign trail, but then look the other way as soon they get a taste of power. These bills are going chafe both parties and, frankly, that's the only way this gets done." What is even more interesting than the overlap between the Sasse bills and the Wallen legislation is that there is some indication that there may be cooperation between the two. *USA Today*, in a piece titled "[Bipartisan crusade against corruption? Elizabeth Warren, Ben Sasse could be leading edge](#)" reported, "Sasse told NBC on Sept. 9 that he 'might well see eye-to-eye' with Warren on ethics reform, and that they 'should talk more.' Then, four days later, Sasse proved he was serious by releasing a series of legitimate bills to 'drain the swamp once and for all.'" The ethical issues and corruption in Washington remains a potent issue on both sides of the aisle and with almost all portions of the electorate. Please consider contacting both of our senators to tell them you support both the Sasse package and Warren's effort.

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!