

## Week ending 10/14/18 - 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 — **30.4%** (+0.1 from last report)

Representative Brian Fitzpatrick — **83.9%** (no change from last report)

Senator Pat Toomey — **90.8%** (-0.4 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. The House is on recess until after the election, so no votes were taken there. The Senate placed one vote related to health care.

### Words From Our Founders

"...we know that ignorance, vanity, excessive ambition and venality, will in spite of all human precautions creep into government...let us never relax our attention, or our resolution to keep these unhappy imperfections in human nature, out of which material, frail as it is, all our rulers must be compounded, under a strict inspection, and a just control."

— [John Adams](#), in a letter to the Boston Gazette, August 29, 1763

### Votes Guide now UPDATED!

All of the House of Representatives votes that have been recapped by the Member of Congress Tracking Report for this 115th Congress have been collected in one place. And those recaps have now been updated with the votes placed by every PA member of Congress from every district. For your ease of use, the bills have been divided by topic, so you can find all of the votes on the Environment (or on Immigration or any one of nine policy areas) collected together. Visit <http://www.patogether.org/us-house-of-representatives.html> and explore how your representative has been voting these past 21 months.

### Votes of Interest -

**S.J.Res. 63: A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Secretary of the Treasury, Secretary of Labor, and Secretary of Health and Human Services relating to "Short-Term, Limited Duration Insurance"**  
<https://www.govtrack.us/congress/votes/115-2018/s226>

This is the story of an action that had no chance of being passed, but was designed to get the Republicans in the Senate on the record on a issue they have desperately tried to avoid.

Earlier this year the Trump Administration introduced a bureaucratic rule change that allowed for [new insurance plans](#) to be offered that do not meet the minimum requirements from the Affordable Care Act. These plans are often referred to as "Junk insurance," as they do not cover pre-existing conditions, maternity care, hospitalization or prescription drugs. The introduction of plans like these is just one more step in the plot to chip away at the ACA. The Democrats in the Senate introduced this action to overturn the Trump Administration's rule allowing this junk insurance using the same technique that the Republicans used to great effect last year to overturn a number of Obama era rules.. [Politico](#) described the strategy behind this effort:

The resolution, even if it had survived the Senate, had no chance of passage in the GOP-controlled House, and the Trump administration on Tuesday issued its first-ever veto threat on the measure. But Democrats, energized by Obamacare's newfound popularity, hoped pushing it through the Senate would amount to a symbolic rebuke and force vulnerable Republicans like Nevada Sen. Dean Heller to take a difficult vote just before November's midterms.

In a vote that took place on Wednesday, October 10, 2018, this effort failed. The final vote was 50-50, but there would have had to be 51 votes to pass the measure. Sen. Susan Collins (R-Maine) joined the Democrats to get that number to 50. **Casey voted YES** and **Toomey voted NO**.

**On the Nomination PN1409: Eric S. Dreiband, of Maryland, to be an Assistant Attorney General**  
<https://www.govtrack.us/congress/votes/115-2018/s230>

After a one week pause we are back to having a confirmation vote on a Trump Administration nominee who has a history of working in a manner antithetical to the position he was chosen to hold. In this case the nominee is Eric S. Dreiband and the open position is the Assistant Attorney General of the Civil Rights Division at the Department of Justice. That is the top civil rights position in the United States, answering only to Attorney General Jeff Sessions and the President. [Lambda Legal](#), a premiere LGBTQ+ legal defense and advocacy group, wrote a letter to the Senate wherein they highlighted the nominee's "overwhelmingly anti-civil rights record and his personal involvement in cases seeking to diminish the rights of LGBT people and other vulnerable communities." While the letter goes on to cite many examples of this record, here is one excerpt:

Mr. Dreiband chose to represent the University of North Carolina when it was sued by civil rights groups and the U.S. Department of Justice after North Carolina passed a law (HB2) restricting transgender people's ability to access public restrooms. The nomination of an attorney who volunteered to join a litigation team seeking to frustrate the Civil Rights Division's efforts to block a North Carolina law restricting transgender people's access to public restrooms (HB2) is insulting not only to the LGBT community but to the career men and women of the Division who valiantly litigated that case for many months (until the Sessions Justice Department abandoned the litigation following a modification of the law). His nomination embodies this Justice Department's lack of commitment to defending the civil rights of LGBT people.

The [National Women's Law Center](#) offered a similar letter opposing this confirmation. In their review of the nominee, they observe "Mr. Dreiband has worked to narrow the scope of rights and remedies under crucial sex discrimination laws enforced by the Civil Rights Division, including those providing protection from pay discrimination, pregnancy discrimination, and gender identity discrimination." They close their letter with the observation "Mr. Dreiband's record is inconsistent with the Assistant Attorney General's duty to protect civil and constitutional rights."

Despite these deep concerns, Mr. Dreiband was confirmed in a 50-47 vote on Thursday, October 11, 2018. The vote fell along party lines. **Casey voted NO** and **Toomey voted YES**.

**On the Nomination PN1843: David James Porter, of Pennsylvania, to be United States Circuit Judge for the Third Circuit**

<https://www.govtrack.us/congress/votes/115-2018/s231>

The Senate confirmed a number of judicial nominees this week, most by a fairly wide margin (12+ votes). This was the only contentious vote, and it affects us directly. We have previously discussed the [blue slip process](#), a hundred year old procedural rule whereby the senators from a judicial nominee's state submit a blue slip to approve of the nominee before the Senate proceeds to a vote - no blue slip, and the nominee never makes it to consideration. Senator Toomey used the blue slip process to block an Obama administration nominee in 2015. But in this new world run by Senate Judiciary Chairman Chuck Grassley and Senate Majority Leader Mitch McConnell, the blue slip process has been tossed out the window. Senator Casey has [refused to give his approval](#) to Mr. Porter, observing "as a lawyer, David Porter has advocated legal theories that stack the deck against workers, deny Pennsylvanians access to health care and undermine the equal protection of our laws for all Americans." And Senator Casey was not alone in his objections to this nominee. The [Alliance for Justice](#), a national organization of 130 progressive legal groups, explained their objections thusly:

Porter's career has been marked by fidelity to highly ideological and partisan missions. He is affiliated with several ultraconservative groups, including the Federalist Society. He has a close relationship and is philosophically aligned with Leonard Leo, the president of the Federalist Society, as he made clear when he thanked Leo for his comments on a

book review Porter wrote on *Ourselves and Our Prosperity: Essays in Constitutional Originalism*. Disturbingly, Porter is a contributor to the Center for Vision & Values, a conservative think tank that has advocated against LGBTQ rights and argued that the minimum wage is unconstitutional. With former Senator Rick Santorum, he founded the Pennsylvania Judicial Network, an organization which opposed the nomination of U.S. Supreme Court Justice Sonia Sotomayor. In addition, Porter has vocally opposed the legality of the Affordable Care Act.

Regardless of Sen. Casey's decision to withhold his blue slip, the vote for Mr. Porter took place on October 11, 2018. Mr. Porter's nomination was confirmed, 50-45, along party lines. **Casey voted NO** and **Toomey voted YES**.

## MoC Twitter Action

**Senator Bob Casey hot topics:** The senator focused on three topics this week. He celebrated National Coming Out Day with a supportive message to the LGBTQ community. There were a pair of tweets that provided some information and a meme about Disability Employment Month that showed a year-on-year employment increase of 3%. He offered a short series of tweets (featured below) about an asylum-seeker he has met.

**Casey tweets of the week, 10/10/18:** "Carmela Apolonio Hernandez and her children face life-threatening danger in their home country, which is why I have pushed the Administration to treat them fairly and appropriately evaluate their asylum claim. Over many months, I have advocated on the family's behalf with top officials in the Administration. I have also met with Carmela's children and spoken directly with her. I, along with my staff, will continue to advocate for measures that will provide them the protections they are due under our laws."

— the [linked article](#) is about Ms. Hernandez, a North Philadelphia woman who had gone into sanctuary after getting a deportation order. She left the sanctuary to make a plea to the senator {EDITOR'S NOTE - this article was not shared by the senator, but provided to offer context for his tweets}

**Representative Brian Fitzpatrick hot topics:** The representative shared three tweets this week. In one he talked about partnering with another Representative on an animal protection bill. His other two tweets related to the report from the Intergovernmental Panel on Climate Change. The Representative used that information as a springboard to promote his membership on the Climate Change Caucus and his co-sponsorship of a bill to introduce a carbon tax.

**Fitzpatrick tweet of the week, 10/10/18:** "We must stand up for animals. I'm proud to partner with @RepCharlieCrist, @ASPCA and @HumaneSociety to strengthen protections for animals and provide a voice for the voiceless. We're thankful that @SecSonny and @USDA are considering measures similar to our WOOF! Act."

— shared with a copy of the [letter](#) Rep. Fitzpatrick and Rep. Charlie Crist sent to the Secretary of Agriculture

**Senator Pat Toomey hot topics:** The senator broke his long silence this week, and tweeted on a number of topics. When the news broke on the upcoming departure of UN Ambassador Nikki Haley, Senator Toomey offered a trio of tweets about her "exemplary" service. The senator then shared a pair of critical tweets with an article about a Trump Administration plan to expand the sale of a type of ethanol fuel. He closed out the week with a return to form on trade and China, expressing his disapproval for the current escalating tariff situation.

**Toomey tweets of the week, 10/12/18:** “China’s illicit acts must be confronted, but tariffs – i.e. taxes - only end up punishing American consumers, employers, and workers. I’m calling on the admin to exempt PA companies from these new costly taxes.”

— shared with a link to an [Allentown Morning Call](#) article titled “[Toomey urges Trump to grant tariff exclusions to Lutron, other regional employers](#)”

### **Honorable mention, lawmaker**

From @ChrisCoons, (D-Del.) on 10/11/18:

“When a crisis like the disappearance of Jamal Khashoggi occurs, we need American diplomats in key posts around the world to ensure the United States can respond quickly & effectively. Right now, though, the Trump Admin hasn’t even nominated ambassadors for Turkey or Saudi Arabia. As a member of the Foreign Relations Committee, I’m urging the President once again to nominate ambassadors for key positions around the world so they can be confirmed and get to work.”

— shared in response to the alleged murder of a dissident journalist and US resident at the Saudi consulate in Turkey

### **Honorable mention, media**

From @msddow, Rachel Maddow of MSNBC on 10/12/18:

“From the new lawsuit filed against Georgia Secretary of State (and GOP candidate for Governor) Brian Kemp... This is on Page 5: of the >50,000 voter registrations Kemp's office has put "on hold" before the election, less than 10% are from white voters”

— shared with a link to the PDF of the [lawsuit](#)

### **Honorable mention, constituent response**

From @Folon15 on 10/10/18:

“Many thanks, Sen Casey, for continuing to fight against the cruelty & corruption of this admin & GOP. It's so frustrating & demoralizing that I'm ever more grateful for your steadfast efforts to stand up for what is right & good about America. #WeAreThePatriots”

— made in response to Senator Casey’s tweets of the week about the asylum seeker who left sanctuary to meet with the senator

## **Casey in the News**

*Courtesy of contributor Kathy Sites*

“Negotiations on saving Social Security must begin with Republicans dropping demands for privatization, which is a colossally stupid idea. You take goofy ideas like that off the table, there’s a lot we can do just as was done in the past. You had bipartisan efforts to make sure that we’re keeping the program solvent. We must have extensive, bipartisan hearings to determine the best strategy for solving Medicare’s financial crisis. My first job is to make sure the radical proposal to turn Medicare into a voucher program is not enacted into law. I think it’s their attempt to pay for tax cuts and other deficit-increasing policy by cutting back on Medicare and Medicaid.”

— from the [CitizensVoice.com](#) article titled “[Candidates talk Social Security, Medicare](#)”

"I have heard from sexual assault survivors all across the Commonwealth about what this appointment means to them, so I assure the women across Pennsylvania, I hear you. Although we weren't able to stop this appointment, we as American citizens will have another chance for our voices to be heard in November."

— the senator's response to victim advocate concerns that the confirmation of Judge Kavanaugh will have a negative impact on the willingness of sexual assault victims to come forward, from a *Fox 43* article titled ["PA advocates say Brett Kavanaugh's confirmation may have an impact on abuse victims"](#)

"This shameful fact will become history on Nov. 6, thanks to the seven (Democratic) Pennsylvania women running for the Congress."

— the senator's comment on the fact that there are no females representing the Commonwealth of Pennsylvania in Congress, as reported in the *Delco Times* opinion piece titled ["Needed: voters engaged by wit, humor, intelligence"](#)

"In honor of #NationalComingOutDay, I commit to continue being an ally in the fight for equality, and commend the bravery of all individuals who have come out as LGBTQ."

— from the *MetroWeekly.com* article titled ["National Coming Out Day celebrates its 30th anniversary"](#)

"David Porter's published works reveal an ideology that will serve only the wealthy and powerful as opposed to protecting the rights of all Americans. His record indicates that workers, families and everyday Pennsylvanians will be worse off with him on the bench."

— from the *CourthouseNews.com* article titled ["Senate Confirms 15 Judges for the Federal Bench"](#)

## **Fitzpatrick in the News**

"Unfortunately the reality down there is that people tend to wait until the last minute."

— the congressman's mistaken prediction that the Congress would reauthorize the Land and Water Conservation Fund before it expired on September 30th, from the *Bucks County Courier Times* article titled ["Federal conservation fund in doubt after sunset in September"](#)

"These people don't endorse without thoroughly not only assessing the record — this is based on a working relationship over a two-year period."

— the Congressman explains why he believes that gun control advocacy groups have endorsed him, in the *New York Times* article titled ["In a Crucial Pennsylvania District, Gun Policy Reigns Supreme"](#)

"If we can get to 60 members, we become essentially the new governing body of Congress, meaning that the solutions we put on the floor to immigration, to health care, criminal justice reform, to infrastructure, will be based on the center, rather than to the extreme right if the Republicans control or the extreme left if the Democrats control."

— the congressman expresses his hope for what is possible with an expanded membership for the 48-member Problem Solvers Caucus, in the *Jewish Exponent* article titled ["Brian Fitzpatrick, Scott Wallace to Take Center Stage for Debate"](#)

"I'm the only Republican in the entire state, and probably beyond that, that hasn't accepted a dime from the NRA."

— from the *Philadelphia Inquirer* article titled ["GOP House candidate wins big gun-control endorsement, but activists cry foul"](#)

### **Interesting development - Fitzpatrick and a newspaper in the news**

On Saturday, October 13, 2018, the *Bucks County Courier Times* dropped an article titled "[Political tracker posed as Courier Times reporter at Scott Wallace event](#)." The piece goes on to explain that a staffer for the Brian Fitzpatrick campaign, who had received "approximately \$4,000 for part-time work" went to an event, pretended to be a reporter for the *Bucks County Courier Times* and then interviewed Scott Wallace, Fitzpatrick's Democratic challenger. The Fitzpatrick staffer then uploaded the video of the interview "to the channel 'Democrat Tracking,' an anonymous depository for footage that opposition researchers can mine for soundbites to use against candidates. Previous finds have been spotlighted in conservative media outlets and Republican campaign ads... [and] Wallace's answers surfaced in a Washington Examiner editorial and a press release from the National Republican Congressional Committee."

In a statement, Rep. Fitzpatrick's campaign spokesperson has said that the staffer did not do this at the direction of the campaign and has since been fired. And the Representative himself has since called the executive editor of the newspaper to apologize. The congressman said that the behavior of the staffer was "completely unacceptable."

### **Toomey in the News**

*Courtesy of contributor Elayne Baker*

"There's something deeply wrong with our perception of the court when a single vacancy produces such a brutal and bitter battle. As long as we have a huge segment of our society and a entire political party that is dedicated to using the court to advance a policy agenda, then we're probably going to have these brutal battles... I suspect that something terrible did happen to her. I doubt very much she made this up out of whole cloth... [but] there has to be some corroboration or anybody can be destroyed."

— from *The Morning Call* article titled "[Pennsylvania senators reflect on deep tensions exposed in Kavanaugh fight](#)"

"I am pleased that the Senate confirmed Judge Chad Kenney and Peter Phipps to the federal bench. During his years of public service, Judge Kenney has proven himself to be an independent and fair jurist who has served the people of Delaware County well. Judge Kenney will make a terrific addition to Pennsylvania's Eastern District bench and I congratulate him.

I also congratulate Peter Phipps on his confirmation to serve as a judge for Pennsylvania's Western District. Mr. Phipps has extensive private and public sector experience, having worked as a litigator and as an attorney at the Department of Justice. I have no doubt that he will serve the Western District with integrity and fairness."

— from the *Marietta Daily Journal* article titled "[Toomey, Casey laud court appointments](#)"

"I disagree with the president on this. We've waited way too long for the Fed to begin normalizing interest rates. I'm glad that they finally have begun that process."

— the senator's defense of the Fed's decision on interest rates, from the *Washington Examiner* article titled "[Trump takes credit for economy, blames 'overly aggressive' Fed for stock market](#)"

"Section 301 tariffs are direct taxes on American consumers and producers. They directly reduce American purchasing power, curtail freedom, impede job creation and limit production."

— from *The Bradford Era* article titled "[Toomey urging gov't to exempt Pa. companies from Chinese tariffs](#)"

“Whenever you’re dealing with changing the rules on ethanol, it seems you me, you ought to address the heart of the problem. This is a disastrous policy, an invention of the government that leads to these huge costs that are essentially unmanageable for merchant refiners in particular.

“What we should do is we should have no ethanol mandate, let’s just be honest...If the cost is low enough, then this terrible policy doesn’t matter very much...Anything that can be linked directly to job loss would be problematic for whoever is deemed to be responsible for that job loss.”

— a portion of the senator’s extended comments on a new Trump Administration policy on ethanol fuel, from a *Conservative Review* article titled [“Sen. Pat Toomey explains how Trump’s ethanol move could hurt Pennsylvanians”](#)

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](mailto:KierstynPZ@gmail.com) and put "MoCTrack Help" in the subject. Thanks!