

Week ending 12/02/18 - MoCTrack Report

Last week we said there was not going to be another MoCTrack until the week ending 12/09/18 - but that was before a bunch of significant votes were taken, bills were introduced and other legislative action went down! It's something I should have anticipated; lame duck periods are often slow, but only when the legislature is not about to change hands between parties. Below, please find an abbreviated report. We'll be back next week with the regular Twitter and media coverage, but this week is all about the legislation.

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%** (no change from last report)

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

Senator Pat Toomey — **90.8%** (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. No votes were scored since mid-October.

Words From Our Founders

"The aim of every political constitution is, or ought to be, first to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society; and in the next place, to take the most effectual precautions for keeping them virtuous whilst they continue to hold their public trust."

— James Madison, in [Federalist 57](#)

Votes of Interest -

Motion to Invoke Cloture: Thomas Alvin Farr, of North Carolina, to be United States District Judge for the Eastern District of North Carolina

<https://www.govtrack.us/congress/votes/115-2018/s249>

Hold onto your hats - we've got a lot of twists and turns to get to in this situation. But first, let's review why Judge Thomas Alvin Farr is so objectionable. [New York Magazine](#) explains:

Farr was for years closely associated with the godfather of southern Republican racist politics, the late North Carolina senator Jesse Helms....Farr also represented North Carolina Republican legislators whose voter-ID law was eventually struck down by federal judges on grounds that it targeted African-American voters "with almost surgical precision." Whether or not Farr is personally an enemy of voting rights, he has certainly been an enabler for those who frown on those people voting, and as a federal judge in a state with more than its share of voting-rights litigation, his confirmation might have mattered.

But Farr's inadequacy is only one piece of the larger political picture. Departing senator Jeff Flake (R-Ariz.) made an [announcement](#) back on November 14, 2018 that he would be holding up all judicial confirmations until such time as Senate Majority Leader Mitch McConnell allowed [legislation](#) to protect the Mueller investigation to come to the Senate floor, an action the leader had blocked. Accordingly, he voted against [cloture](#) for Judge Farr, joining all of the Democrats and Independents, bringing the Senate to a 50-50 tie. Vice President Pence was brought in to break the tie, moving the nomination of Judge Farr one step closer to confirmation. **Casey voted NO** and **Toomey voted YES**. But then [news broke](#) on Friday, November 30, 2018 that Sen. Tim Scott (R-S.C.), the only African American member of the Senate's Republican caucus, would join Flake in voting against Judge Farr in the final vote, effectively sinking the nomination. It is unclear if the nomination will be withdrawn, or if it will come to a final, unsuccessful vote during the week of December 3rd.

Motion to Invoke Cloture: Jonathan A. Kobes, of South Dakota, to be United States Circuit Judge for the Eighth Circuit

<https://www.govtrack.us/congress/votes/115-2018/s251>

This is another [cloture](#) vote, meaning that it is the penultimate step in the confirmation process. That this nominee made it this far in the process is a testament to the Trump Administration's willingness to eschew democratic norms in seeking out candidates for the judiciary. Mr. Kobes was rated unqualified by the American Bar Association. In their [letter](#) to Senate Judiciary Chairman Chuck Grassley, the ABA observed that while they had reviewed the nominee's work, "...none of the writing that we reviewed is reflective of complex legal analysis, knowledge of the law, or ability to write about complex matters in a clear and cogent manner –qualities that are essential for a Circuit Court judge." Additionally, The Leadership Conference, a coalition of civil and human rights organizations, wrote a [letter](#) objecting to Mr. Kobes, noting his "insensitivity to LGBTQ equality," his work to "limit reproductive freedom," and his "ideological and partisan affiliations." For the second time in as many days, Vice President Pence was brought in to break a tie vote. All of the Democrats and Independents voted against cloture on this nominee. Sen. Jim Inhofe (R-Okla.) was called home for a family emergency, and Sen. Jeff Flake (R-Ariz) simply voted present. **Casey voted NO** and **Toomey voted YES**. Many commentators and Twitter wags took to calling our Sen. Flake as caving on his promise to hold up judicial confirmations until his Mueller protection bill was brought to the floor. The Senator [responded](#) via Twitter to someone who accused him of 'caving' and said "Nope, just pairing my vote with colleague who couldn't be here because of a family emergency. I'll vote no on final passage next week."

H.R. 7187: To extend the National Flood Insurance Program until December 7, 2018

<https://www.govtrack.us/congress/votes/115-2018/h424>

If there is only one thing this Congress can be counted upon, it is a willingness to kick the can down the road. In this case, it is the program that covers flood insurance. [STL News](#) explains the situation as follows:

...the House and Senate voted to reauthorize the National Flood Insurance Program (NFIP) until December 7, 2018. This latest in a 14-month series of short-term reauthorizations allows legislators time to agree on a longer (6-10 month) short term reauthorization. The 7-day reauthorization also provides an opportunity to re-link NFIP reauthorization to higher profile government funding legislation, which itself must be extended before December 7, 2018 to avoid a partial government shutdown.

This 8th short term extension for the NFIP passed both houses on November 29, 2018. In the House, the vote was 350-46. In the Senate, a voice vote was held, so there is no record of how each legislator voted, but it is safe to assume it had the support of both Pennsylvania senators. This short term funding vote makes next week's shutdown threat loom even larger.

This is the vote results for the Pennsylvania congressional delegation (remember - district numbers are for the 115th Congress, and not the new districts):

Yea	D	Brady, Robert	PA 1st
Yea	D	Evans, Dwight	PA 2nd
Yea	R	Kelly, Mike	PA 3rd
Yea	R	Perry, Scott	PA 4th
Yea	R	Thompson, Glenn	PA 5th
Yea	R	Costello, Ryan	PA 6th
Yea	D	Scanlon, Mary	PA 7th
Yea	R	Fitzpatrick, Brian	PA 8th
Yea	R	Shuster, Bill	PA 9th
Yea	R	Marino, Tom	PA 10th
No Vote	R	Barletta, Lou	PA 11th
Yea	R	Rothfus, Keith	PA 12th
Yea	D	Boyle, Brendan	PA 13th
Yea	D	Doyle, Mike	PA 14th

Yea	D	Wild, Susan	PA 15th
Yea	R	Smucker, Lloyd	PA 16th
Yea	D	Cartwright, Matthew	PA 17th
Yea	D	Lamb, Conor	PA 18th

H.R. 6901: Federal CIO Authorization Act of 2018

<https://www.govtrack.us/congress/votes/115-2018/h425>

This bill is a much needed first step to improve the Information Technology infrastructure in the federal government. It was introduced by Rep. Will Hurd (R-Texas), a former CIA agent who has made IT and cybersecurity his legislative priorities. There are a lot of minor technical fixes to existing legislation about technology, and additional sections on technology investment planning and oversight. Since one of the excuses offered for the debacle that came to light this week related to [G.I. Bill payments](#) relates to laughably outdated technology used at the Department of Veterans Affairs, this bill comes at just the right time. The [Internet Association](#), an industry organization that includes the likes of Google, Amazon and Dropbox, issued a [statement](#) about this bill that observed:

This bipartisan legislation demonstrates a strong commitment to empower the Federal CIO's efforts to modernize the country's aging IT systems towards commercial cloud solutions. The Senate should pass this legislation and send it to the president for signature...The internet industry looks forward to seeing government-wide policies that implement commercial technology best practices, including cloud adoption across the public sector.

The House voted upon this bill on November 30, 2018. They did so under a [suspension of the rules](#), which meant the bill needed a $\frac{2}{3}$ [supermajority](#) to pass. The bill passed unanimously, 391-0.

H.R. 2846: To require the collection of voluntary customer service feedback on services provided by agencies

<https://www.govtrack.us/congress/bills/115/hr2846>

This is a bill that is mostly interesting mostly for some peculiar procedural details. The bill itself is one that would implement a customer service-like survey for all interactions with federal agencies and the public, in the hopes of improving the relations between civil servants and the public. On November 29, 2018, the bill passed unanimously via voice vote, thus **Fitzpatrick voted YES**.

Rep. Fitzpatrick dropped a [press release](#) after the passage of the bill where he refers to himself as the sponsor, and says, "the Federal Agency Customer Experience Act ensures that federal agencies collect voluntary feedback from individuals about their interactions with the government. By gathering user comments, agencies will be able to gauge customer service concerns and publicly report the feedback they receive." Where this gets interesting is that all of the government tracking sites (like Congress.gov and Govtrack.us) show that Rep. Blake Farenthold introduced this bill. If that name seems familiar, that's because Farenthold was one of the Congressmen who resigned in the midst of the #MeToo scandal. Taxpayers footed the bill for an [\\$84,000 harassment settlement](#), which he still has not paid back. The bill itself was introduced last June and at the time Rep. Fitzpatrick did NOT issue a press release, as he does for most bills that come out of his office, which lends credence to the fact that this legislation was the product of someone other than Fitzpatrick. But the [floor debate](#) from this week for this bill makes no mention of Farenthold, and only refers to Rep. Fitzpatrick as the sponsor... so it looks like our representative has taken ownership of this orphaned bill, and is claiming all the credit for its passage with bipartisan backing.

The (latest) looming government shutdown

Back in September, a series of votes were taken to fund the government for 2019. The dozen "must pass" funding bills were lumped into a set of three "minibus" bills: one covered most [defense](#) spending; [another bill](#) covered Veterans, Energy, Water, the Legislative Branch, and assorted odds and ends; and the [final bill](#) covered Labor, Health and Human Services, and Education. That third bill also contained continuing

appropriations for some areas where no long term agreement could be reached, much like the [continuing resolutions](#) (CRs) we have discussed in past MoCTracks. That funding runs out on December 7, 2018 and would affect Immigration and Customs Enforcement (ICE), Border Patrol, and other agencies run under the Department of Homeland Security (DHS).

Much of the negotiation hinges on President Trump and his demands for wall funding. As he was leaving for Argentina earlier this week, the president [stated](#), “if we don’t get the wall money, possible shutdown.” Then, in a *Washington Post* [interview](#), the president said “We’re not having a wall because of the Democrats. We need Democrat votes to have a wall. Now, if we don’t get it, will I get it done another way? I might get it done another way. There are other potential ways that I can do it. You saw what we did with the military, just coming in with the barbed wire and the fencing, and various other things.”

There is a bipartisan budget option on the table that does not include wall funding, but does set aside \$1.6 billion for border security. Senate Minority Leader Schumer [clarified](#) the things this funding would not cover, and said it is “...NOT a concrete wall or increases in detention beds or [Immigration and Customs Enforcement] agents.” Another option on the table is yet another continuing resolution, leaving funding for these agencies at its existing level. *Politico* notes that either of those options would be “a disappointment for a president who wants to increase border security spending.”

All of this has been complicated by the passing of President George H.W. Bush. *Associated Press* reporter Andrew Taylor shared a [thread](#) on Twitter on the morning of December 2, 2018 that plays out where things stand, and projects two possible paths forward:

First, most of the government, the Pentagon in particular, is already funded so the stakes are not as great. That may go ignored by the media. And as @JakeSherman has noted, recent shutdowns haven’t had enduring political costs. Still, the roster of Washington politicians who really want a shutdown is quite short and it doesn’t include McConnell, who doesn’t have time for it, especially now. Ryan is checked out I am sure. With the news of George H.W. Bush’s death comes the development that there will be a short-term continuing resolution. This will be seized as an excuse to punt the showdown into January and into Pelosi’s lap. This is fine with Pelosi, who will reclaim the speakership and immediately project strength against Trump. She would then have the easiest job of all. Pass clean CRs and lob them to McConnell.

However, if Ryan wants to end his speakership with a spectacular blunder he can try to keep the House in Washington for a closer-to-Christmas shutdown with all the accompanying drama and attention. In that case, the House GOP lame ducks are sure to revolt. Why would Denham, Mia Love, Frelinghuysen, Lance, Culberson and company want to stick around to do Trump’s bidding? They lost or are leaving b/c of him and THEY WANT TO GO HOME

So stay tuned for more shutdown developments. This week is going to be interesting.

Legislation of Interest:

Lame Duck Tax Reform Package

<https://docs.house.gov/billsthisweek/20181126/BILLS-115SAHR88-RCP115-85.pdf>

The House Ways and Means Committee shared a [press release](#) on November 26, 2018 that announced a new tax reform package. *Politico* reported that this bill came out as a surprise to everyone other than House Republicans, as “they did not release a detailed summary of the plan, or an official estimate of how much it would cost.” That same article has commentary from the spokesperson for Sen. Ron Wyden (D-Ore.) who griped, “The first time Finance Committee Dems saw Brady’s legislation was in his press release. There was no communication from his staff, including a heads up that something was coming. That is not how you negotiate.”

Upon its release, I provided the following [bill recap](#) on Twitter (cleaned into paragraph form, with hashtags replaced for easier reading):

There are some real doozies in this Lame Duck Tax Reform package. Here's some of what the GOP House Ways and Means Committee think needs to be addressed in the last five weeks that the GOP has control of the House...

Do you have a race horse? I'm sure that all of us in the middle and working class really need section 129 of the Lame Duck Tax Reform where they address "classification of certain race horses as 3-year property." Thanks, GOP House Ways and Means Committee, we all really wanted that. How many of you out there own a motorsports entertainment complex? If so, then this designed with you in mind, because the GOP is now giving you a 7 year recovery period in section 135! Thanks!

I kind of like the sound of an "empowerment zone" but I don't think the Republicans on the House Ways and Means Committee and I have the same thing in mind when using that term. Either way, the Lame Duck Tax Reform is giving them extended incentives in section 143... Wait a sec! in the definitions of Title II Disaster relief, the package includes a bunch of hurricanes, typhoons, wildfires, and volcano eruptions... but makes NO MENTION of Puerto Rico or Hurricane Maria! WTF, GOP!

Then they put about 100 pages into rules for retirement plans into the proposal. About 78% of households are in debt or living paycheck to paycheck. So I guess House Ways and Means Committee wasn't really thinking about most Americans for all of Title III. I think it is pretty clear that when the GOP was drafting this Lame Duck Tax Reform, with its racehorses and sports complexes and retirement funds, they didn't have regular Americans in mind. This is just another holiday present for their donors, for the second year in a row!

In the days after the surprise release of this package, the CBO [reported](#) that this new bill would cost \$55 billion. With a shutdown looming, it is unclear if this bill will make it to the floor for consideration. If they Congress decides to pass another continuing resolution to kick DHS and border funding to the 116th Congress, then it is possible that the departing GOP House leadership will try and push this bill through in these last weeks of the 115th Congress.

H.Res. 1162: Expressing the sense of the House of Representatives with respect to Ukraine

<https://www.govtrack.us/congress/bills/115/hres1162/text>

The ongoing tensions and conflict between Russian and Ukraine ramped up in the past week, with Russia firing upon Ukrainian ships and taking their crews as prisoners. The *New York Times* has produced this [explainer piece](#) for those who want to know more. In response to this action, the leaders of the House Foreign relations Committee, Chairman Ed Royce (R-Calif.) and Ranking Member Eliot Engel (D-N.Y.) introduced this resolution which condemns the actions of the Russian Federation, supports the government of Ukraine, and "encourages the President and allies and partners of the United States to hold the Russian Federation accountable for its ongoing aggression against Ukraine." Representative Fitzpatrick, a member of not just the House Foreign Affairs Committee but also the House Ukraine Caucus, has released his own statement condemning the attack, but he has not joined on as a co-sponsor of this resolution. Please consider contacting him to encourage him to do so.

H.R. 7173: Energy Innovation and Carbon Dividend Act of 2018

<https://www.govtrack.us/congress/bills/115/hr7173/text>

This is a carbon tax bill that was introduced on November 27, 2018. It has 5 co-sponsors (3R, 2D) including our own Rep. Fitzpatrick. [Supporters](#) of climate action are calling this bill "the most significant climate change legislation Congress has seen in over a decade." *Mother Jones* [produced](#) an article titled 'Sure, the New Bipartisan Carbon Tax Will Go Nowhere, but Here's Why It Matters.' Their reporting

speaks of the importance of sending a message that bipartisan climate solutions are possible, but the piece goes on to note that many of the co-sponsors did not take the time to attend the event where the bill was introduced. They note:

Republican co-sponsors Brian Fitzpatrick and Francis Rooney, who represent districts in Pennsylvania and Florida respectively, skipped out on the event for their own bill, due to what Deutch described as “some scheduling conflicts.” (A Democratic co-sponsor, Maryland’s John Delaney, also missed the event.) A spokesperson for Fitzpatrick did not respond to a request for more specifics about his absence, but Chris Berardi, Rooney’s communications director, said the congressman had an event in the morning at the United States Institute of Peace on his schedule “for many weeks.”

If this is an issue that motivates you to action, please consider calling Rep. Fitzpatrick and telling him that it is not enough to simply introduce or co-sponsor legislation - his constituents expect him to actively promote and champion it.

Legislation related to the conflict in Yemen from both houses

Three weeks ago the Republican Majority in the House quashed [action](#) to pass a resolution related to the US involvement in the crisis in Yemen. And last week the Senate tabled a Sen. Rand Paul [effort](#) to stop arms sales being used in that same arena. Awareness and horror at this man-made humanitarian crisis is growing, and there are efforts in both Houses to limit or end the support we are giving to Saudi Arabia in their war in Yemen.

In the House, Rep. Ro Khanna has introduced a concurrent resolution ([H.Con. Res. 142](#)) that asserts the Congress’s [war powers](#) rights, and would direct the president “to remove United States Armed Forces from hostilities in the Republic of Yemen that have not been authorized by Congress.” That resolution has 6 co-sponsors (4D, 2R), and it is pending in the House Foreign Affairs Committee, where Rep. Fitzpatrick is a member. The Senate version of this effort is [S.J.Res. 54](#), and it was introduced by Sen. Bernie Sanders. That effort has 18 co-sponsors (17D, 1R).

Neither of Pennsylvania’s senators are listed as co-sponsors, but both have expressed their positions on the issue. Sen. Casey issued a [statement](#) months ago, where he made it clear that an Authorization for Use of Military Force is needed if the president wants to pursue involvement in Yemen, but he felt “the U.S. must do more to push for a negotiated political solution to the conflict in Yemen.” Sen. Toomey issued a [statement](#) just this week where he said that the “procedural vote will rightfully prompt further conversation on the murder of Jamal Khashoggi and our relationship with Saudi Arabia” and little else of consequence.

S. 3658: A bill to require the Director of National Intelligence to submit to Congress a report on the death of Jamal Khashoggi

<https://www.govtrack.us/congress/bills/115/s3658/text>

In the past weeks, the president has gone out of his way to back the ever-changing positions emanating from Saudi Arabia about the murder and dismemberment of US resident and journalist Jamal Khashoggi, despite the fact that the CIA has [concluded](#) that Saudi crown prince Mohammed bin Salman ordered the killing. In response to this disturbing situation, Sen. Ron Wyden (D-Ore.) has introduced a new bill that would force the Director of National Intelligence to submit a report on the murder to Congress. The bill is pending in the Senate Select Intelligence Committee, and it has 3 co-sponsors (all D). Sen. Wyden released a [statement](#) where he explains:

Bowing to the Saudi government over the murder of a Washington Post columnist is unacceptable for any American president, let alone one who claims to put America first. Donald Trump claims that ‘we may never know’ who is responsible for ordering the murder of Jamal Khashoggi. I disagree. Today I’m introducing legislation requiring a public assessment from our intelligence leaders about who is responsible for planning and executing Mr. Khashoggi’s brutal murder.

A representative from the Committee to Protect Journalists commended the bill, and [said](#) “Mandating an investigation by the director of national intelligence would be an important step toward securing justice for Khashoggi and his family.”

S. 3649: First Step Act

<https://www.govtrack.us/congress/bills/115/s3649>

This bill is a bipartisan attempt to address small steps in criminal justice reform. It was introduced by Sen. Chuck Grassley (R-Iowa), the Chairman of the Senate Judiciary Committee. The bill has 25 co-sponsors (12R, 12D, 1I) , but neither Pennsylvania senator is on that list. Grassley described his [bill](#) to the *Gazette of Cedar Rapids* as “carefully crafted to help low-risk offenders become productive citizens of society after they serve their time (while) keeping hardened and dangerous criminals behind bars... And by reducing recidivism this bill would reduce crime and reduce taxpayer burden of incarceration.” In addition to the mix of bipartisan support from legislators, the bill has backers from outside magnates like the Koch brothers and George Soros, and pundits as diverse as New Gingrich and Van Jones, according to [reporting](#) in *The Hill*.

But even with all of those backers, the path forward is not clear for this legislation. [Politico](#) reports that Sen. Tom Cotton (R-Ark.) is warning that, as written, the bill might mean lighter sentences for sex offenders. And after a meeting between Trump-appointee/acting Attorney General Matt Whitaker and Sen. Lindsey Graham (R-S.C.), the senator told the [Washington Post](#) that Whitaker has concerns about the “drug part of the bill.”

There are only ten working days left on the calendar for the Senate before the end of the 115th Congress. And with the shutdown looming, it would be a big accomplishment if they got this passed in time for the House to debate and vote upon it.

This report brought to you by the PA-08 MoCTrack team...

Elayne Baker

Gary Garb

Kathy Sikes

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 and put "MoCTrack Help" in the subject. Thanks!