

## Week ending 12/09/18 - PA 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%** (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.

*EDITOR'S NOTE: The fact that these numbers haven't moved in months says less about the partisan positions taken by our legislators, and more about how President Trump is making no public statements about legislative issues. If it isn't related to the wall or the Mueller investigation, Trump hasn't been making any policy related statements.*

### Words From Our Founders

"Knowledge will forever govern ignorance: and a people who mean to be their own Governours, must arm themselves with the power which knowledge gives."

— [James Madison](#), 1822

### Votes of Interest -

#### **On the Nomination PN2170: Kathleen Laura Kraninger, of Ohio, to be Director, Bureau of Consumer Financial Protection for a term of five years**

<https://www.govtrack.us/congress/votes/115-2018/s255>

Continuing a pattern that is no doubt infuriating and exhausting readers, the Trump Administration nominated another complicit and inexperienced bureaucrat to a critical leadership role at a key agency. In this case, the nominee is Kathleen Laura Kraninger, a department head in Homeland Security, for a position to lead the Consumer Financial Protection Bureau. The *Los Angeles Times* [reports](#) that Kraninger "...oversees the budgets for the Department of Homeland Security and the Justice Department, which have been implementing the controversial policy that has separated at least 2,000 children from their parents crossing the U.S.-Mexico border since April." At the time of her nomination, the same paper [observed](#), "Trump has tapped a little-known White House aide with no apparent relevant experience in finance, banking regulation or consumer protection." *Politico* focused their reporting on the close ties between Kraninger and the current head of the CFPB, Mick Mulvaney, a Trump ally who has sought to undermine the mandate of the agency he runs. They [noted](#):

Republicans quickly lined up behind Kraninger on the endorsement of Mulvaney — her boss at Office of Management and Budget] — after she was nominated. Mulvaney's supporters and critics alike see the appointment of one of his lieutenants as a way to ensure he keeps his hand in CFPB operations, especially after Kraninger said she "cannot identify any actions that [Mulvaney] has taken with which I disagree."

In a pure party line vote on December 6, 2018, Kraninger was confirmed, 50-49. **Casey voted NO** and **Toomey voted YES**.

#### **On the Nomination PN2556: Bernard L. McNamee, of Virginia, to be a Member of the Federal Energy Regulatory Commission for the remainder of the term expiring June 30, 2020**

<https://www.govtrack.us/congress/votes/115-2018/s254>

This is a vote to fill the year and a half left in the term of a departing member of the Federal Energy Regulatory Commission (FERC), the independent agency that plays a key role in determining United States energy policy by regulating interstate transmission of electricity, natural gas, and oil. For this vacancy, the Trump Administration has chosen Bernard McNamee, the leader of the Department of Energy's Office of Policy. Prior to that role, McNamee held positions at a Texas conservative think tank

and as an aide to Sen. Ted Cruz (R-Texas). In an op-ed published in *The Hill*, McNamee laid out [his philosophy on energy policy](#):

We have been told that fossil fuels are wrecking the environment and our health. The facts are that life expectancy, population and economic growth all began to increase dramatically when fossil fuels were harnessed — and have continued to do so for the 200 years since the beginning of the Industrial Revolution... America is blessed with an abundant supply of affordable natural gas, oil and coal. When we celebrate Earth Day, we should consider the facts, not the political narrative, and reflect about how the responsible use of America's abundant resources of natural gas, oil and coal have dramatically improved the human condition — and continue to do so.

In addition to this, *Energy Dive*, an [industry publication](#), reports that McNamee "...helped roll out the DOE's ill-fated coal and nuclear bailout plan that was unanimously rejected by FERC in January." The nominee's record was so egregious that even coal state Sen. Joe Manchin (D-W.V.) could not support him. In a [statement](#) reported in *The Hill*, Manchin cited McNamee's past work and said, "...after viewing video footage, which I had not previously seen, where Bernard McNamee outright denies the impact that humans are having on our climate, I can no longer support his nomination to be a FERC commissioner." But despite all this, the nominee was confirmed in a 50-49 party-line vote on December 6, 2018. **Casey voted NO and Toomey voted YES.**

## SHUTDOWN UPDATE

### H.J.Res. 143: Making further continuing appropriations for fiscal year 2019

<https://www.govtrack.us/congress/bills/115/hjres143>

In last week's MoCTrack Report we had [extensive coverage](#) of the impending partial government shutdown affecting Immigration and Customs Enforcement (ICE), Border Patrol, and other agencies run under the Department of Homeland Security (DHS). On Thursday, December 6, 2018 both houses passed a two week [continuing resolution](#), pushing the new funding deadline to December 21st. Both the House and the Senate used a [voice vote](#) to pass the legislation. *CNN* succinctly explains the crux of the issue, [reporting](#) "Congressional leaders in both parties have indicated they do not want a partial shutdown, but Democrats and Republicans remain at an impasse over Trump's demand for \$5 billion for his long-promised border wall and the issue continues to be the key sticking point in negotiations." *The Washington Post* has more [extensive coverage](#) of the negotiations. While there was some talk of a broader immigration deal, Speaker Nancy Pelosi nixed that, saying she would not trade wall funding for protections for immigrants brought illegally to the country as children, because "they're two different subjects." At the heart of the issue is the President and his demands. Senate Appropriations Committee Chairman Richard C. Shelby (R-Ala.) observed, "Somebody'll have to blink. I think the president's going to have to get something. He is the president. He has sent some strong messages to most everybody. What that'll be, we're not sure yet."

## The Death of former President George H.W. Bush, our MoCs speak

### Senator Bob Casey, 12/01/18, via his [website](#):

"Today, our nation mourns the loss of President George H.W. Bush and reflects on his lifetime of service. From his time in uniform to his days in Congress and ultimately in the White House, President Bush served our country honorably and with distinction for over 40 years. As President, he promoted democracy in the former Soviet Union and worked to expand the rights of individuals with disabilities. My prayers are with him and the Bush family at this time."

### Representative Brian Fitzpatrick, 12/01/18, via his [website](#):

"America mourns as we lose a true American hero and true statesman, George Herbert Walker Bush.

As one of the youngest Navy pilots during WWII, George H.W. Bush demonstrated remarkable patriotism and selfless humility. Through his steadfast leadership, President Bush guided our nation to the peaceful end of the Cold War, underscored with the demise of the Berlin Wall. May his profound legacy of public

service serve as a reminder to all Americans, “We as a people have such a purpose today. It is to make kinder the face of the nation and gentler the face of the world.”

Now he is reunited with Barbara, his beloved wife. I send my sincerest condolences to the Bush Family, who selflessly shared President Bush’s life with our nation for over seven decades. Rest in peace, Mr. President.”

**Senator Pat Toomey, 12/01/18, via [Twitter](#):**

“President George H.W. Bush was a great American patriot, dedicated public servant, tireless humanitarian, and a caring family man. Kris and I join the nation in mourning President Bush’s passing and send our condolences to his family.”

## MoC Twitter Action

**Senator Bob Casey hot topics:** The senator has been uncharacteristically quiet in the weeks since the election, especially since Thanksgiving. His feed has had holiday wishes and his comments on the passing of President George H.W. Bush, as well as public service announcements about the open enrollment period for healthcare. The only policy topics he has touched upon are his dissatisfaction with the NAFTA replacement agreement and the Trump Administration’s continued attacks on the Affordable Care Act. On a lighter note, the senator retweeted a few images from different sources (Philabundance and the Preston and Steve Show) of his appearance at the annual Camp Out for Hunger food drive event.

**Casey tweet of the week(s), 11/229/18:** “This is another attempt by the Trump Administration to sabotage our health care system by undermining the marketplace and promoting enrollment in junk insurance.”

— shared with a [link to a Washington Post article titled “New insurance guidelines would undermine rules of the Affordable Care Act”](#)

**Representative Brian Fitzpatrick hot topics:** In addition to the expected holiday and condolence content, the representative shared photo-op images of himself donning employee gear and briefly working at a Home Depot. He shared a public health notice about a local boil water advisory. His only policy related content dealt with the promotion of a bill on customer service that passed the House, and his attempts to bring attention to the Land and Water Conservation Fund, which needs reauthorization as their funding ran out in September.

**Fitzpatrick tweet of the week(s), 11/29/18:** “Since its establishment over 50 years ago, the Land and Water Conservation Fund has promoted recreational activity and contributed to our nation’s robust economy, along with conserving our national parks, forests, and critical wildlife areas.”

—shared with a [link to the representative’s press release on the same topic](#)

**Senator Pat Toomey hot topics:** The senator was atypically chatty these past two weeks, even when one excludes the expected messages related to holidays and the passing for President Bush. He shared several photos with incoming legislators (including Rep. Susan Wild of PA and Sen. Mitt Romney of Utah). He dropped a trio of tweets explaining his position on the murder of journalist Jamal Khashoggi and Saudi Arabia. He promoted bipartisan legislation he introduced with Alabama’s Sen. Doug Jones related to working with China to track down production of fentanyl (and related drugs). He promoted an appearance on Fox News, and then closed this week by releasing a statement in support of the nomination of Bill Barr as Attorney General.

**Toomey tweet of the week(s), 12/03/18:** “The proposed #USMCA includes provisions that diminish trade between US, Canada, & Mexico. I want to work with @POTUS to make changes that address these flaws. Hear more on trade & the administration’s handling of Saudi Arabia/Jamal Khashoggi from my hit on @JERonFNC this weekend.”

— shared with a [clip of his appearance on Fox News](#)

### **Honorable mention, lawmaker**

From @RepAdamSchiff (D-Calif.), incoming Chairman of the House Intelligence Committee, on 12/09/18:

“There’s a real prospect that when Trump leaves office, he may be indicted and face the possibility of jail time. Were he not President, he may have already been charged. While ordinary Americans legally supported campaigns, Trump, like Cohen, played by a different set of rules.”

— shared with a [link](#) to a clip of the representative’s appearance on CBS’s Face the Nation

### **Honorable mention, media**

From @Yascha\_Mounck, Harvard lecturer, New American fellow and Slate columnist, on 12/06/18:

“Holy s\*\*t. As @jkyleindc just pointed out to me, four out of the five most populous countries in the world are now ruled by populists: India, Brazil, Indonesia and the United States. The fifth is China.”

— passing on info from Dr. Jordan Kyle, a senior fellow at the Tony Blair Institute for Global Change

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

From @bobmcw53

“You seem to be one of those billowing advertising air people waving around outside a cell phone store. Hollow on the inside, no soul of your own, with no purpose other than to entice people to notice something they don’t want or need.”

— made in response to Senator Toomey’s [tweet](#) in support of Attorney General nominee Bill Barr

## **Casey in the News**

*Courtesy of contributor Kathy Sites*

“We have a sacred responsibility to ensure that no one, no one loses a house or life savings or is needlessly deprived of their rights because a guardian abused their power. That is unacceptable.”

— the senator’s comments upon introducing a bill with Senator Susan Collins (chairperson of the Senate Aging Committee where he is the ranking member), from the *PA Homepage* article titled “[The Guardianship Accountability Act](#)”

“We regret that nonprofit organizations – especially religious institutions, schools, and community centers – have become targets for violent attacks and believe we have a responsibility to address the motivating factors behind these threats,” wrote the Senators. “But as long as the threat remains, we must take steps to ensure these facilities have the necessary resources to improve their security if they wish to do so. While we recognize much more remains to be done beyond investing in security, we urge your strong support for robust funding of the Nonprofit Security Grant program in the FY19 appropriations cycle and stand ready to work with you on this issue.”

— excerpts from a letter drafted by the senator, and submitted to the Department of Homeland Security on behalf of a bipartisan group of 32 senators, as reported in the *MyChesCo.com* article titled “[One Month After Tree Of Life Shooting, Casey Continues Fight To Protect Worship Centers](#)”

“Get there physically, listen to them, show up and give a damn. You can do better than whatever we’ve been getting there.”

— the senator’s comments on how to beat Trump in 2020, from the [Washington post article titled “Triumphant Democrats offer a primer on how to beat Trump in Pennsylvania”](#)

“I do think Pennsylvania is a crucial state for the next president to win and Democrats should nominate someone who can win our commonwealth without a doubt. I’ve won the state by an average of 13 points over three Senate elections so I have an obligation to consider it. My top priority is currently my third term in the United States Senate and working for the people of Pennsylvania, but I am not ruling anything out.”

— from a [Washington Examiner article titled “Sen. Bob Casey of Pennsylvania says he is considering running for president in 2020”](#)

## **Fitzpatrick in the News**

“By gathering user comments, agencies will be able to gauge customer service concerns and publicly report the feedback they receive. The result is a win-win. The American public receives better services and customer care, while agencies achieve greater impact and ability to fulfill their missions.”

— the representative explains the merits of his recently passed Federal Agency Customer Experience (FACE) Act, from the [Ripon Advance blog post titled “House passes Fitzpatrick’s bill to improve federal government customer services”](#)

“Since its establishment over 50 years ago, the Land and Water Conservation Fund has promoted recreational activity and contributed to our nation’s robust economy, along with conserving our national parks, forests, and critical wildlife areas. Today, we are demanding that Congressional leadership permanently reauthorize and fully fund the Land and Water Conservation Fund. The time is now to act.”

— the representative’s comments on the need to reauthorize a bill that expired in September, from the [LongIsland.com article titled “Rep. Zeldin Joins Bipartisan Coalition to Demand Reauthorization and Full Funding of Land and Water Conservation Fund”](#)

“Russia’s blatant violation of international law in the Sea of Azov and their provocative attack against Ukraine’s sovereignty are totally unacceptable. Russia must immediately restore the freedom of navigation through the Kerch Strait to allow Ukrainian vessels to freely use Ukrainian ports.”

— an excerpt from an article in the English language edition of the [Kyiv Post \(Ukraine’s Global Voice\)](#), titled [“Ukrainian diaspora in US protest against Russia’s Black Sea aggression”](#)

“One year after Hurricane Maria, I want to make sure people don’t forget about Puerto Rico. As a member of the Homeland Security Committee, I was pleased to see much work done on the island, but there’s much more to be done... After Hurricane Maria effectively destroyed Puerto Rico’s electrical, water, telecommunication, and transportation infrastructure, many families in our community are rightly concerned about the restoration of vital services in Puerto Rico. As American citizens, the people of Puerto Rico deserve the full backing of the federal government and its representatives.”

— from the [Ripon Advance blog post titled “Fitzpatrick inspects post-hurricane Puerto Rico recovery efforts”](#)

## Toomey in the News

Courtesy of contributor Elayne Baker

"The simple fact is NAFTA was enacted through legislation. It requires legislation to repeal it. The bizarre thing about the administration's contention is they acknowledge that if they changed one word in NAFTA they have to come back to Congress to get it approved, but somehow they can strike the whole thing and they don't need Congress for that? That makes no sense and it is not consistent with the legislation."

"It appears the president is trying to say, 'you know it's this or nothing. But when he doesn't have the legal authority to enforce that choice, it's not a very good strategy."

— from a [Business Insider](#) article titled "[Republicans and Democrats agree: Trump can't just do what he wants with NAFTA](#)"

"We've got to weigh the cost of mitigation against the lost economic output there may be, and the people who are very worried about this don't think it's very much."

— the senator's response to the dire warnings from the interagency report on climate change, excerpted from a [Vice News](#) article titled "[Bernie and Ocasio-Cortez's Green New Deal Faces a Wall of Republican Climate Change Deniers](#)"

"At best, the agreement moves to the left, they accept more protectionist provisions, it becomes a worse agreement and maybe it passes. From the administration's point of view, they have to contend with the very real possibility it never passes at all."

— the senator's thoughts on the NAFTA replacement trade treaty, from the [Politico](#) article titled "[Republicans fear they're squandering lame duck](#)"

"...entrusting House Democrats with passing the USMCA is a dicey proposition, at best... Many of the newly elected Democrats ran on opposition to all things Trump, and the next House speaker will not prioritize passage of President Trump's signature trade achievement."

— from an article in [The Weekly Standard](#) titled "[Cornyn: Trump Administration Doesn't 'Feel the Same Sense of Urgency' to Pass USMCA](#)"

The [Cumberland Sentinel](#) provided full coverage of Senator Toomey's recent telephone "town hall" event in their article titled "[Toomey says he opposes Trump when he's 'doing something wrong.'](#)" It was so full of content, that we need to share a number of excerpts.

- **On President Trump** - "I do want to take exception to the suggestion that every Republican senator is a rubber stamp for President Trump. I have in every instance opposed the president ... when I think he's doing something wrong."
- **On the new trade deal with Mexico and Canada** - "Frankly, I think it's not as good as the underlying NAFTA. I can't support it in its current form. ... It's not clear how the administration plans to get it enacted in Congress, but we'll see."
- **On the Special Counsel's investigation** - "I think it would be foolish, it would be irresponsible, it would be a huge mistake for the president to fire Robert Mueller, but I believe he has no intention of doing so and it would be unconstitutional for us to pass a law."
- **On why common sense gun reform has not moved forward** - "I do not control the votes of my colleagues. I cannot make them agree with me, no matter how strongly I feel."
- **On the murder of Jamal Khashoggi and Saudi Arabia** - "Somebody needs to be held responsible ... but at the same time we need to recognize that Saudi Arabia is a country and a country that shares much of our interests."
- **On social safety net programs** - "If you're a 30-year-old and you're still 35 years away from your retirement, we're being dishonest to that 30-year-old if we're saying Social Security and Medicare will be there as they are today. The program is going to look different for them."

## Legislation of Interest - unfinished business edition

With the legislative session coming to an end, there is less focus on new bills and more on wrapping up dealmaking on pending legislation. Let's take a look at the big bills that are still in the works. The decision to bump the negotiations related to the partial shutdown to December 21st makes it unlikely that all of these will pass, just because of the time crunch. This is a recap of what unfinished business is still waiting on final votes.

### The Farm Bill (H.R. 2)

<https://www.govtrack.us/congress/bills/115/hr2/summary#libraryofcongress>

If only one of these bills in this unfinished business section can be classified as a "must pass" item, it is the Farm Bill, a massive piece of legislation that gets revised and reauthorized every five years or so. It sets subsidy levels for agricultural products, addresses crop insurance and covers the Supplemental Nutrition Assistance Program (SNAP), more commonly known as food stamps. Earlier this year, there was a significant amount of wrangling related to this legislation (for more detail, see this MoCTrack [recap](#) from May and June), mostly related to the GOP's demand that the new bill contain onerous work requirements for recipients of food stamps. The House had a failed vote in May, followed by a successful passage in June. The Senate passed their own version in late June, without the controversial SNAP changes. For the past months, the bill has been in conference between the two houses. Then, just after Thanksgiving, key members of the conference committee - House and Senate Agriculture Committee Chairs Mike Conaway (R-Texas) and Pat Roberts (R-Kan.) and Ranking Members Collin Peterson (D-Minn.) and Debbie Stabenow (D-Mich.) - [announced](#), "We're pleased to announce that we've reached an agreement in principle on the 2018 Farm Bill. We are working to finalize legal and report language as well as CBO scores, but we still have more work to do. We are committed to delivering a new farm bill to America as quickly as possible." The *Morning Call* has provided a [recap](#) of the conference committee's output, which "...rejects controversial House provisions to tie food stamp benefits to expanded work requirements, greenlights hemp cultivation and tweaks programs important to farmers and ranchers." The bill is expected to leave its committees in the week of December 10th for votes in each house.

### #MeToo/Congressional Harassment Policy Reform (H.R. 4924 and S. 2952)

<https://www.govtrack.us/congress/bills/115/hr4924> AND

<https://www.govtrack.us/congress/bills/115/s2952>

Treatment of harassment claims in the Congress is based upon a 1995 policy package that is outdated, full of 'cooling down' periods and mandatory mediation, favors the accused, and provides no protection for unpaid interns. The House and the Senate each passed their own revamp of the process, but the House version is more suited to the culture's current sensibilities, while the Senate's offering reflects the age and gender make-up of its members. *NBC News* [explains](#):

While both bills require a lawmaker who enters into a settlement over sexual harassment accusations to be financially responsible for payments, the Senate bill is much more limited in scope. In the Senate bill, a lawmaker must pay only in instances of sexual harassment and not for other forms of discrimination against a subordinate. It also narrows the definition of harassment, leading critics to say these two actions create a loophole that could make it more difficult to reach a sexual harassment claim because the wrongdoing can be categorized as discrimination.

Another major difference between the two bills is that in the Senate version the victim does not get employer-provided/funded legal counsel, something included in the House bill. Negotiations to reconcile the two versions have been stalled for months, prompting former Congressional staffers to write a [letter](#) to legislators, stating "...time is running out to make these improvements a reality. As the lame duck session begins, many critical and time-sensitive issues will be competing for Congress' attention. We implore you to continue making this one your focus." The fate of this package is entirely reliant on how much noise constituents make about the Congress's inability to bring this to the finish line.

### Special Counsel Protection Legislation (S. 2644)

<https://www.govtrack.us/congress/bills/115/s2644>

The fate of legislation to protect the investigation of Special Counsel Mueller into election interference and obstruction of justice pivots upon the willingness of Senate Majority Leader Mitch McConnell and departing House Speaker Ryan to bring the bill to the floor. In [last week's MoCTrack](#) we covered how the

departing Sen. Jeff Flake (R-Ariz.) was trying trying to force McConnell's hand by withholding his vote on conservative judicial nominees. This appears to be making a mark, as the Judiciary Committee has cancelled several meetings and votes on nominees. *CNN* reports:

A [Senate Judiciary Chariman, Chuck] Grassley aide cited the reason as Flake not backing off his threat to vote against all pending nominees until he gets a floor vote on a bill to protect special counsels like Robert Mueller from political interference. This is the second meeting in consecutive weeks the committee has scrapped, delaying 22 nominees from floor consideration by the end of the year.

It is uncertain if Flake's actions combined with the accelerating pace of the Mueller team's legal actions will cause the GOP leadership to soften their line and hold a vote, or cause them to become more intransigent. Only time will tell.

### **Criminal Justice Reform (S. 3649)**

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

In the surprise move of the 115th Congress, Senator Chuck Grassley (R-Iowa) introduced a modest criminal justice reform package, including sentencing reform, easing mandatory minimums, giving judges flexibility, and rehabilitation people while incarcerated. The bill has over 30 co-sponsors, equally split between the two parties. The list runs the gamut from progressives like Sens. Cory Booker (N.J.) and Sheldon Whitehouse (R.I.) to GOP stalwarts like Sens. Lindsey Graham (S.C.) and Mike Lee (Utah). Sen. Grassley voiced his frustration with the Senate Majority Leader earlier this week, [noting](#) "all I can say is if McConnell will bring this up, it will pass overwhelmingly," according to the *Washington Post*. Grassley added that he believed there were between 65 and 70 votes for the package in the Senate. The paper went on to explain the importance of getting the bill done this session. Grassley felt that "Democrats, who are taking over control of the House, would probably try to make the legislation more liberal, which would cost GOP support in the Senate." *The Hill* went on to [report](#) that Grassley felt this criminal reform package should supercede judicial votes, an issue that is moot now that Sen. Jeff Flake has made it clear that he won't support any confirmations. The article goes on the explain McConnell's objections:

Grassley said that McConnell opposed voting on criminal justice reform in the past because Senate Republicans faced primary challenges... McConnell, however, has warned colleagues that debating the bill could take as long as 10 days, chewing up valuable time before Christmas. He said must-pass bills such as the farm bill and the seven remaining appropriations bills should take priority.

With that in mind, the Congress's decision to bump the negotiations over the impending shutdown have endangered the possibility of passing this reform effort, barring major adjustments to the lame duck calendar for both houses.

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