

## Pennsylvania Member of Congress Tracking Report - 02/17/19

This is a 100% volunteer effort brought to you by a handful of progressive Democrats and Independents who share a vision of an electorate that knows exactly what their elected officials are doing on their behalf, and who bring that knowledge with them to the polls each year. We want to offer a big thank you to the Pennsylvania Together and Pennsylvania Statewide Indivisible organizations who host our report and help us share it out to the residents of our Commonwealth!

### Tracking Congress in the Age of Trump

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

Member of Congress	This week's score	Change from last report
<a href="#">Senator Bob Casey (D)</a>	31.1%	-0.4%
<a href="#">Senator Pat Toomey (R)</a>	88.5%	+0.1%
<a href="#">PA-01 Rep. Brian Fitzpatrick (R)</a>	75.2%	+0.2%

Nate Silver's [FiveThirtyEight website](#) assesses the voting records of our MoCs to provide this index, by noting any bills where President Trump has stated a position, and comparing the vote of the legislator to that opinion. There was one vote scored in each house this week, in the Senate for the Attorney General nomination, and in the House for ending military involvement in Yemen.

Want to see exactly what votes went into giving your MoC the numbers above? Click on the name of any legislator and you will be brought to their 538 webpage, where all of the positions that went into the index are listed in an easy-to-read format.

### Words From Our Founders

"If a pertinacious minority can control the opinion of a majority respecting the best mode of conducting it; the majority in order that something may be done, must conform to the views of the minority; and thus the sense of the smaller number will over-rule that of the greater, and give a tone to the national proceedings. Hence tedious delays—continual negotiation and intrigue—contemptible compromises of the public good."

— Alexander Hamilton, from [Federalist 22](#), discussing what that "pertinacious minority" might do in "emergencies of a nation"

### Votes of Interest -

#### Averting another shutdown

[Senate vote](#) and [House vote](#) on H.J. Res. 31

The bill that averted a second Trump Shutdown came as a result of negotiations in the conference committee agreed created at the end of January. What follows is a recap of a [thread](#) I posted to Twitter (using the hashtag #MoCTrack - check it out for midweek legislative news) as I read the [draft](#) version of the bill available on Thursday morning:

- Section 209 is great for anti-287g activists, it gives a way of blocking funds from going to municipalities that "materially violate" the program. So if they can demonstrate abuses to the DHS Inspector General, they have recourse.
- Section 210 says that they can cut funding to any detention center where 'the two most recent overall performance evaluations received by the contracted facility are less than "adequate"' - so we have to keep pressing for excellent oversight!
- Section 224: No funds in the bill can be used to "place in detention, remove...or initiate removal proceedings against a sponsor...or potential sponsor of an unaccompanied alien child." It also included member of households of sponsors. AWESOME!

- Then there is a subsection (224b) that defines what background check findings would make a sponsor unsuitable. It is very specific (child abuse). So no more horror stories about children being torn away over an old DUI.
- Section 230(1) is the Trump appeasement chunk - "\$1,375,000,000 is for the construction of primary pedestrian fencing, including levee pedestrian fencing, in the Rio Grande Valley Sector"
- Section 230(2) has "\$725,000,000 is for the acquisition and deployment of border security technologies" [drones] and "to include \$570,000,000 for non-intrusive inspection equipment at ports of entry" [chemical 'sniffers' for drugs]
- Section 231 blocks any fencing from being put into a bunch of wildlife areas, including the Santa Ana Wildlife Refuge and the National Butterfly Center.
- Section 232 is going to keep DHS from putting up fencing in cities and towns without consulting the local/municipal governments. It says DHS and "the local elected officials of such a city... shall confer and seek to reach mutual agreement regarding the design and alignment of physical barriers." it also says that no funds are to be made available while those consultations are ongoing."

But, as Dara Lind points out in this [must-read explainer piece](#) in Vox, the crux of this deal isn't really the wall, instead "it's funding for the detention of immigrants — both those apprehended at the border and those arrested within the United States — by Immigration and Customs Enforcement (ICE)." The Trump administration was pushing for funding to maintain 52,000 beds for detainees. The negotiations in the conference committee resulted in getting that number down to "40,520 — the level authorized by Congress last year — by September 30."

All of the voting for this compromise bill occurred on Thursday, February 14, 2019 - one day before the deadline. The appropriations resolution first passed the Senate in late afternoon, 83-16. **Casey voted YES** and **Toomey voted NO**. The bill then went to the House for a 9:00 PM vote. It passed 300-128. **Fitzpatrick voted YES**, one of two Pennsylvanian Democrats to cross party lines. There was more mixed voting across the country. Nineteen Democrats voted against this bill, including progressive Representatives Pramila Jayapal (Wash.), Raul Grijalva (Ariz.), Ayanna Pressley (Mass.), Rashida Tlaib (Mich.), Alexandria Ocasio-Cortez (NY.), and Ilhan Omar (Minn.). On the other side, 87 Republicans crossed the aisle to vote for this bill.

Sen. Toomey issued a lengthy statement about his NO vote, via his [website](#). In it, he says that "it was irresponsible for Congress to pass, without scrutiny, or opportunity for amendments, 1,700-plus pages of spending including hundreds of millions on wasteful and ineffective programs." And he declares, "clearly there was no serious attempt to curb Washington's addiction to overspending. Instead, this bill adds to our mounting debt, and I could not support it." He concludes with "I will continue fighting for a normal appropriations process and urge my colleagues to join me in restoring fiscal sanity to the federal funding process."

### Confirming a new Attorney General

[Senate vote](#) on the nomination of William Barr

After months of dealing with Acting Attorney General Matthew Whitaker's [inadequacies](#) and [scandals](#), the Trump Administration finally nominated a replacement to undergo confirmation by the Senate. The nominee is William Barr, who previously served in the Attorney General post under President George H. W. Bush.

The heart of Mr. Barr's confirmation hearings revolved around the nominee's plans for his involvement with the Mueller investigation and whether he would make public its findings. The *Washington Post* [reports](#):

While Republicans hailed Barr's confirmation, Democrats and left-leaning advocacy groups said they remained wary of President Trump's appointee, who at his confirmation hearing notably declined to promise that he would release Mueller's report. Sen. Dianne Feinstein (Calif.), the Senate Judiciary Committee's top Democrat, said in a statement Thursday that she considered Barr's lack of commitment to releasing Mueller's report "disqualifying" and that she worried he would be unable to stand up to Trump.

The invaluable *Lawfare* blog compiled [all of Mr. Barr's noncommittal responses](#), should you wish to peruse them yourself.

In a vote taken on February 14, 2019, Mr. Barr was confirmed, 54-45. **Casey voted NO** and **Toomey voted YES**. Three Democrats crossed party lines to vote for William Barr - Senators Doug Jones (Ala.), Kyrsten Sinema (Ariz.), and Joe Manchin (W.V.). Sen. Rand Paul was the only Republican to vote against the nomination, with North Carolina's Richard Burr not voting because he was attending the funeral of his fellow state Congressional delegation member Rep. Walter Jones, who passed away earlier this week.

Our Senators issued the following statements about our new Attorney General:

Senator Bob Casey, 02/12/19, via his [website](#):

"Based upon his record, writings and testimony before the Judiciary Committee, I have substantial concerns about William Barr's commitment to follow through on vital reforms to our criminal justice system and to vigorously enforce our civil rights laws, which are under attack by this Administration. Not only has he criticized Special Counsel Mueller's investigation, but he has also supported the President's discriminatory Muslim ban and opposed federal sentencing reform efforts.

He has endorsed former Attorney General Jeff Sessions's entire record, which included rolling back protections for LGBTQ Americans, limiting consent decrees with local police forces and deciding not to defend the Affordable Care Act and its protections for preexisting conditions against attacks in federal court. For these reasons, I will vote against his nomination."

Senator Pat Toomey, 02/14/19, via his [website](#):

"I was pleased to join a bipartisan majority of my colleagues in confirming Bill Barr to again lead the U.S. Department of Justice. He is eminently qualified and will make an outstanding attorney general. His distinguished record of public service indicates that as attorney general he will work tirelessly to uphold the rule of law and keep our communities safe."

### **National park expansions and a permanent authorization of the LWCF**

[Senate vote](#) on S. 47

This is some seriously great news. This bill creates a cluster of new national monuments (including the home of Medgar and Myrlie Evers in Mississippi), expands five existing parks (including Death Valley and Joshua Tree) and withdraws mining rights on federal lands near a pair of existing parks (North Cascades and Yellowstone). For a full list, see this *Washington Post* [article](#). Additionally, this bill will permanently reauthorize the Land and Water Conservation Fund ([LWCF](#)), a program that protects federal public lands and waters and encourages voluntary conservation of private lands. This excellent program is funded not by taxpayer dollars, but by using fees paid by fossil fuel extraction corporations who pay the federal government to lease public lands. That transfer of fees needed to be reauthorized every few years by Congress, who let the program expire last September.

The Senate achieved unexpected levels of bipartisanship on this bill. In voting that took place on February 12, 2019, this passed 92-8. **Casey voted YES** and **Toomey voted NO**. I called Sen. Toomey's office to try and find out his rationale for voting NO. A prepared statement (one not available on his website, Facebook or Twitter presences) was speedily read to me by a staff member. Among the points conveyed was the Senator's opinion that since the National Park Service already has a backlog of \$15 billion in needed maintenance and improvements, we shouldn't expand our obligations. I asked that this prepared statement be emailed to me... and I am still waiting for the office of our junior senator to fulfill that request.

### **Anti-lynching bill passes the Senate**

[Senate voice vote](#) on S. 488

The Senate has tried [almost 200 times](#) to make lynching a federal crime. Most recently, the Senate passed an effort in December, but the measure didn't make it to the floor of the House before the lame

duck period ended and the slate was wiped clean (thanks, Trump Shutdown, for keeping everyone busy with other things. Senators Kamala Harris (D-Calif.), Cory Booker (D-N.J.) and Tim Scott (R-S.C.) introduced the same legislation again, and it passed the Senate via voice vote (presumably unanimously) on February 14, 2019.

### **An attempt to get the United States out of Yemen**

[House vote](#) on H.J. Res. 37

The situation in Yemen has been described as the [world's worst humanitarian crisis](#). The United States is currently refueling Saudi Arabian planes as well as selling the Saudis weapons, some of which are ending up in the hands of "al Qaeda-linked fighters, hardline Salafi militias, and other factions waging war in Yemen", according to [CNN](#). Add this to the president's unwavering support for the Saudis, even after the murder of journalist Jamal Khashoggi, and we have a recipe for Congressional action.

This [joint resolution](#), introduced by Rep. Ro Khanna (D-Calif.) says, in part:

Congress hereby directs the President to remove United States Armed Forces from hostilities in or affecting the Republic of Yemen, except United States Armed Forces engaged in operations directed at al-Qaeda or associated forces, by not later than the date that is 30 days after the date of the enactment of this joint resolution... For purposes of this resolution, in this section, the term hostilities includes in-flight refueling of, non-United States aircraft conducting missions as part of the ongoing civil war in Yemen.

Rep. Khanna has explained the broader goals of the bill, [observing](#), "It's not just about Yemen. It's about the Congress taking a stand and every future president having to think twice about whether to authorize a military intervention without congressional approval."

The vote on this resolution was taken on February 13, 2019 and it passed 248-177. The Democrats were unanimous in their support of this resolution and they were joined by 18 Republicans, mostly members of the Freedom Caucus. **Fitzpatrick voted NO.**

It is important to note that the Senate passed a [similar resolution](#) in the 115th Congress, with a 56-41 vote. Seven Republicans joined the Democrats in passing that bill, which never made it to the floor of the House for a vote, thanks to the intervention ([remember](#) when they tucked a random bit about Yemen into resolution about the Farm Bill during the lame duck period?) of the House leadership. Unfortunately, a number of Senators who voted to pass the Senate version in the 115th Congress are now gone - including Joe Donnelly (D-Ind.), Heidi Heitkamp (D-N.D.), Claire McCaskill (D-Mo.), Bill Nelson, (D-Fla.), and Jeff Flake (R-Ariz.). It is unclear if the 6 GOP members of the Senate who voted yes last term would do so again, or if Senate Majority Leader Mitch McConnell would let this resolution come to the floor.

### **Clean up your social media if you want a security clearance!**

[House vote](#) on H.R. 1065

Almost every employer or staffer with hiring power in the entire country knows that it's necessary these days to review someone's social media presence before hiring to get the best possible glimpse of what a prospective employee is really like. Apparently our government is \*just now\* getting that memo. This new bill calls upon the Director of the Office of Management and Budget to submit a report to the Congress on the current use of social media review for granting security clearance, any legal impediment to this practice and "options for widespread implementation of the examination of social media activity" in the future. In a vote taken under suspension of the rules (meaning it needs a  $\frac{2}{3}$  supermajority to pass) on February 11, 2019, the bill got a vote of 377-3. **Fitzpatrick voted YES.**

### **PA's MoCs respond to the President's announcement of a national emergency**

Some of our legislators, mostly Republicans, have ignored the president's declaration of a national emergency to bypass Congress's decision to not fund a ridiculous campaign promise, thereby flouting the constitutional separation of powers. Please find below the MoC statements available as of 02/17/19 via their websites, Twitter, and Facebook.

□ **Senator Bob Casey, 02/14/19, via [Twitter](#):**

“This bipartisan agreement will keep the government open and invest in effective border security, instead of funding President Trump’s wall, which security experts say will not work. President Trump’s national emergency declaration is a complete abuse of power. No President can be allowed to spend taxpayer dollars without authorization from Congress.”

□ **PA-02’s Rep. Brendan Boyle, 02/15/19, via his [website](#):**

“President Trump’s declaration of a national emergency at the southern border is a disturbing abuse of power to serve his political aims. The Constitution entrusts Congress with spending authority, and the President with the duty to faithfully execute the law. After years of complaining about executive overreach, President Trump decided to do just that by redirecting federal spending without Congressional approval. I will do everything in my power to ensure this flagrant power grab is not successful and our democracy remains strong for generations to come.”

□ **PA-03’s Rep. Dwight Evans, 02/14/19, via [Twitter](#):**

“I oppose President Trump’s forthcoming “emergency” declaration & fully expect that it will be overturned in court.”

□ **PA-04 Rep. Madeleine Dean, 02/15/19, via her [website](#):**

“Keeping our government open for business is the right thing to do. But declaring a national emergency to build a costly, ineffective wall is absolutely wrong – especially when doing so will draw funds away from genuine emergencies and disaster relief efforts. Article I is clear. Congress has the power to appropriate funds, and the President’s declaration is an obvious overreach. The legislative branch is weighing a range of options to preserve our constitutional system of checks and balances, and we will take action.”

□ **PA-05’s Rep. Mary Gay Scanlon, 02/15/19, via [Twitter](#):**

“I joined senior members of the @HouseJudiciary Committee in sending a letter to the President to express our concern over his declaration of a national emergency at our southern border. Fabricating a national emergency in an effort to bypass Congressional budget appropriations is a reckless disregard for the separation of powers protected by our constitution. When I visited our southern border last weekend, I did not find a national security crisis. The President’s ill-informed narrative about our border is dangerous and we have an obligation to be a check and balance on the worst impulses of this administration. View our full letter [here](#)” *(that link goes to the letter to the president referenced in the tweet)*

□ **PA-06’s Rep. Chrissy Houlahan, 02/14/19, via her [website](#):**

“Declaring a national emergency is irresponsible, draws from funding already appropriated for other vital programs, puts an unnecessary strain on our troops, and could lead to unintended consequences for our national priorities. This is not how our government should work.”

□ **PA-07’s Rep. Susan Wild, 02/14/19, via [Twitter](#):**

“The President’s decision to declare a national emergency in order to bypass the legislative branch to build a wall along the Southern border is entirely unprecedented and unacceptable. Congress granted the President power to reallocate funds during unforeseen and urgent situations, such as wars and natural disasters. The situation at the southern border simply does not meet this criteria. Republicans and Democrats alike have agreed that unnecessarily declaring a national emergency sets a dangerous precedent and is an irresponsible use of taxpayer dollars. The president should, instead, work with us -- Democrats and Republicans in Congress -- to create rational, long-term immigration reform.”

□ **PA-08’s Rep. Matt Cartwright, 02/15/19, via his [website](#):**

“This is not a smart move. Democrats and Republicans worked hard to reach a bipartisan deal to keep our government open, one that would strengthen and invest in border security in effective ways. As a senior member of the Appropriations Committee, I’m concerned about protecting the spending power of Congress. And as an American, I’m really concerned about the constitutionality of this kind of declaration, as it threatens one of the core pillars of our republic: the separation of powers.”

□ **PA-09's Rep. Dan Meuser, 02/14/19, via his [website](#):**

"The United States' border security personnel pleaded for \$5.7 billion to secure our border. Democrats ignored these concerns and as a result, this bill falls far short. This bill does not meet the needs of our country's border security. It does not end the border crisis. We are essentially forcing the President to declare a national emergency because Nancy Pelosi and Congressional Democrats wouldn't do their jobs."

□ **PA-10's Rep. Scott Perry, 02/15/19, via [Facebook](#):**

"President Trump has every right to invoke a national emergency to secure our borders – a right afforded him by the National Emergency Act of 1976, which several presidents, of both parties, have invoked as well. He's left no other choice, since both chambers and parties of Congress, once again, failed to act to secure our borders."

□ **PA-11's Rep. Lloyd Smucker, 02/15/19, via his [website](#):**

"Emergency declarations should not be taken lightly. President Trump has made a strong case that there's a humanitarian crisis at our southern border – and I agree. It's Congress' duty to ensure the President is acting within his constitutional authority to address that crisis. After research and consideration, I believe Trump is acting within his authority to take this action."

"Emergency declarations do not allow the President to circumvent the Constitution. President Trump's exercise of national emergency powers is limited in this instance. He is not creating a new law or allocating additional funding. He is merely re-appropriating money that has already been set aside for other projects. It will be important that Congress continues to monitor and review the president's role in this process to ensure the actions taken are within constitutional and statutory authority."

□ **PA-13's Rep. John Joyce, 02/14/19, via his [website](#):**

"President Trump has signaled that if he signs this measure he will then have to take unilateral action to provide the additional wall funding that is necessary for our national security. He should not be forced to do that. Congress has a responsibility to provide adequate funding to protect the American people rather than have the President bail us out."

□ **PA-14's Rep. Guy Reschenthaler, 02/15/19, via [Twitter](#):**

"I stand with the President in his commitment to secure our border. Congressional Democrats failed the American people by refusing to provide adequate funding for barriers and I support President Trump's necessary actions to end the humanitarian crisis and secure our border."

□ **PA-15's Rep. Glenn W. Thompson, 02/15/19, via [Twitter](#):**

"National Emergencies are about "blocking" harm to Americans/American interests. 10 declared by Pres Obama. Why does a #wall that would block fentanyl/similar drugs that killed >28,000 Americans of the 70,000 drug overdose deaths in 2017 in communities across the US not qualify?"

□ **PA-18 Rep. Mike Doyle, 02/15/19, via his [website](#):**

"The President is bound and determined to build his wall, but declaring an imaginary emergency based on misleading information so that he can take money from the military budget to pay for it is a terrible move on many levels.

"It discredits the Presidency and undermines our Constitutional institutions by circumventing Congressional control over federal spending. To the extent that the government is going to spend more money on border security, that money could be better spent on new technology and more personnel.

"Finally, taking money from military projects to pay for a wall means that other national security needs will go unmet."

## MoCs with no comment on their social media presence as of 02/17/19:

- Senator Pat Toomey
- PA-01's Rep. Brian Fitzpatrick
- PA-16's Rep. Mike Kelly
- PA-17's Rep. Conor Lamb

## MoC Twitter Action

**Senator Bob Casey hot topics:** The senator started off the week with a number of tweets, photos and retweets of fellow attendees of a 'hearing regarding the challenges we face at our border.' It was attended by a number of PA MoCs. He shared an article about the Trump Administration's refusal to meet the deadline for taking action regarding the murder of Jamal Khashoggi under the Global Magnitsky Act. A lot of the senator's content this week revolved around gun safety and legal reforms as we memorialized the one year anniversary of the Parkland school shooting. He also offered an extended thread on water contamination, and the EPA's "action plan" (which, he notes, he has been advocating for for three years). He ended the week with thoughts on Trump's fake national emergency, and a coal corporation's decision to end retiree benefits.

**Casey tweets of the week, 02/14/198:** "One year ago today, on Feb. 14, 2018, a gunman armed with an AR-15-style semi-automatic rifle took the lives of 17 individuals at Marjory Stoneman Douglas High School in Parkland, Fla. One year later, while the families and community of Parkland still mourn, the outlook for gun violence in America has not improved."

— shared with a link to an [op-ed](#) written by Senator Casey, printed in the *Allentown Morning Call*

**Representative Brian Fitzpatrick hot topics:** The representative was unusually chatty this week. He shared images from a number of events he attended, including appearances with the Yardley Makefield Soccer community, Bensalem's Cub Scout Pack 132 and the American Federation of Government Employees. He shared other images from political events with the Problem Solvers Caucus, a meeting with Rep. Lowenthal (D-Calif.), and a charity event with an influential and useful donor (who owns a local radio station). Other messaging from this week involves promoting his new bills on allowing firefighters and EMS workers to unionize, and stopping puppy mills, which earned him a shout out from the Humane Society. The Representative also dropped in a defense of AIPAC, which was in the news because of the Rep. Ilhan Omar fracas.

**Fitzpatrick tweet of the week, 02/12/19:** "Today we held a bi-cameral, bipartisan meeting with the House and Senate Problem Solve/rs to discuss pathways to forge consensus in the 116th Congress. Thanks to our friends at #NoLabels for organizing!"

— shared with an [image](#) of the mostly white, mostly mail attendees of the event

**Senator Pat Toomey hot topics:** The senator continued to push his legislation to block presidents from unilaterally implementing tariffs. He shared a *Washington Post* analysis piece about Kamala Harris and her "unwarranted conclusions" related to tax refunds and threw a little shade at his colleague in the process. He offered a ridiculous Valentine's poem and a message about America's sugar subsidies. He ended the week with a tweet that included the text of his statement about his NO vote on the shutdown-avoidance budget.

**Toomey tweet of the week, 02/14/19:**

"I have a #TradeValentine for all of you.  
If trade wars are good and easy to win,  
And tariffs are leverage to bring more trade in,  
Why are we still taxing Canadian steel  
And depressing our exports via retaliation?"

— the universally mocked source of much constituent hilarity this week

### Honorable mention, lawmaker

From @RepMGS, Rep. Mary Gay Scanlon (D-Pa.) on 02/14/19

"My office received so much love for #HR1 today, so I felt inspired to write my own valentine...

Roses are red,  
We flipped Congress blue,  
HR 1 returns our democracy to you ☐

#ForThePeople

— shared with a [picture](#) of the valentine's cards she received from constituents about H.R. 1, the Democrat's signature ethics package

### Honorable mention, media

From @David\_Leavitt, freelance journalist on 02/16/19:

I'm only checking Twitter every 5 minutes instead of every 5 seconds to conserve battery power. The rioting has begun and our supply of Nutella is running low. Stay strong. We'll get through this.

#NotesFromNationalEmergency

— part of the hilarious and popular #NotesFromNationalEmergency series of responses from thousands of twitter users, worth a search if you need some humor in your life

### Honorable mention, constituent response

Senator Toomey's atrocious Valentine's Poem inspired a number of constituents to offer rhymes of their own in response. Here are a few, all from 02/14/19:

From [@PhillyResistNow](#):

If Trump is run by Russian spies  
And @SenToomey fills us with lies,  
Why is he still a senator  
And selling us out to the highest bidder?

From [@rbtjh](#):

Toomey's tax plan hurts the middle class  
He took his donor's gold and left us with brass  
Selling his soul to protect Trump  
Will get him thrown out in 2022 onto his rump

From [@PhilaHowieRose](#)

Roses are red  
Violets are blue  
The deficit's 22 trillion (Before the Wall)  
For which we blame you

From [@BucksCoKierstyn](#):

There once was a man from Providence  
Who was seduced by donor emoluments.  
But everyone in PA knew  
Come 2022  
He'd get a pink slip from his constituents

## Casey in the News

Courtesy of contributor Kathy Sites

“Elections are a problem. If we continue to have a system where candidates have to spend huge amounts of time raising money we are going to have divisions. Every minute candidates focus on elections and raising money, you’re not spending time getting to know, in my case, the contents of Republican bills, listening to a presentation from a think tank learning things, not dealing with constituents and this is corrosive. Time spent raising money means less time doing the important things.”

— from a [York Dispatch](#) article titled “[Five things on Sen. Bob Casey’s mind](#)”

“President Trump’s declaration of a national emergency is a complete use of power. No President can be allowed to spend taxpayer dollars without authorization from Congress.”

— from a [Butler Radio](#) article titled “[Kelly, Casey Weigh In On Appropriations Bill That Will Keep The Government Open](#)”

“Whether addressing one’s own health needs, taking care of a sick loved one or nurturing a newborn child, working families deserve peace of mind when it comes to paid leave. I’m proud to support legislation that will ensure that families across the country have financial certainty when they need it most and I call on my colleagues to join in this effort so we can make sure that all workers get a fair shot.”

— from a [Pennsylvania Business Report](#) article titled “[Sen. Casey cosponsors federal family-leave bill](#)”

“I am pleased that we were able to work together on legislation that sets provisions for the conservation of federal lands in south central and southwestern Pennsylvania.”

— from a [LancasterOnline](#) article titled “[Susquehanna National Heritage Area moves forward](#)”

“Naturally the White House took credit for it, and that’s OK. It doesn’t matter. It allowed us to give judges more discretion, to get mandatory minimums down for non-violent offenders, but also to finally—in law—make progress on the sentencing disparity between crack cocaine and powder cocaine. That was a policy that in large measure was a racist policy. It also is incentives to those who are incarcerated and want to reduce their sentences.”

— the senator’s comments on the passage of the First Step Act, from an article in the [Pittsburgh Courier](#) titled “[Casey touts Youth Promise Act—Designed to address needs of at-risk youth](#)”

“This is yet another example of the discrimination that older workers face – either on the job or while applying for a job. We must strengthen the ADEA (Age Discrimination in Employment Act).”

— from a [ProPublica](#) article titled “[Appeals Court Rules Key Anti-Age Discrimination Protections Don’t Apply to Job Seekers, Only Employees](#)”

## Fitzpatrick in the News

“Silence is acquiescence.”

— the representative’s comments on colleague Rep. Ilhan Omar, from an opinion piece in the *Philadelphia Inquirer* titled [“Does anti-Israel mean anti-Jew?”](#) The reporter added that Fitzpatrick “says Omar should be stripped of her committee assignments”

“As a society, it is crucial that we protect the welfare of animals. That means strengthening important regulations under the Animal Welfare Act to protect dogs from abuse and neglect. I am proud to reintroduce this bipartisan legislation with Representatives Crist, Thompson and McGovern to protect a species which serves as an invaluable partner in law enforcement, our military, and as service animals.”

— from an article in *Florida Daily* titled [“Charlie Crist Wants to Crack Down on Puppy Mills”](#)

“Serving as good stewards of our environment is something each of us are called to regardless of location, background or political ideology. Protecting our nation’s open spaces and wild places unites us as Americans. I’m proud to stand with my colleagues in support of this bipartisan legislation and urge others to join us in the defense of America’s wilderness.”

— from an article in *Yubanet.com (serving news to the Sierras)* titled [“Huffman, Fitzpatrick, 100 Lawmakers Introduce Bipartisan Bill to Restore Arctic National Wildlife Refuge Protections”](#)

“[EPA nominee Andrew Wheeler] may in fact be supportive of reclassifying it from an emerging contaminant to a hazardous substance, which is very, very important. But the second piece of that is that he be willing to establish MCLs, maximum contaminant levels... These residents did nothing wrong. This problem was caused by no fault of their own. There were military installations who were using firefighting foams that they shouldn’t have been, and ultimately, I believe that the manufacturers of these chemicals who profited to a great extent, for decades upon decades, ultimately should bear the financial burden.”

— from an article on the website of *WKYW Newsradio 1060* titled [“Water contamination at Philly-area military bases may be crucial as Senate considers EPA administrator nominee”](#)

“Giving family members and cohabitants the right to petition a court to have a firearm removed from someone found to be dangerous should not be controversial. This process protects Second Amendment rights by ensuring due-process rights are respected during the judicial process. We must work together and take steps to address gun violence and I’m proud to join Reps. Carbajal, Deutch, and Beyer to re-introduce this legislation.”

— from an article in the *Augusta Free Press* titled [“Beyer joins in bipartisan legislation to reduce gun violence”](#)

“It’s the basic duty of Congress to fund the federal government. Shutdowns disrupt government services, compromise national security, and cause uncertainty for federal employees. Critical funding for programs like the Violence Against Women Act lapse. Congress should follow the way the American people run their businesses and manage their families: lead by example to build consensus and solve problems in a dignified, honorable manner.”

— from an article in the *Orlando Political Observer* titled [“Murphy, Fitzpatrick Introduce Bipartisan Legislation to Keep Congress Working During Shutdowns”](#)

“Serving as good stewards of our environment and working to ensure endangered species can be protected and repopulated is something each of us are called to regardless of location, background or political ideology. This bill will help reduce habitat destruction, minimize marine debris, and slow the spread of invasive species. I’m proud to stand with my colleagues in support of this bipartisan legislation and urge others to join us in the defense of endangered species.”

— from an article in the *Orange County Breeze* titled [“Proposed legislation would protect albatrosses and petrels”](#)

## Toomey in the News

Courtesy of contributor Elayne Baker

"I never thought that was a good idea. I still don't."

— from the [Vanity Fair](#) article titled "[Republicans Melt Down Over Trump's National Emergency](#)"

"I don't see [stock] buybacks as a problem. They occur after the investment has been made."

— from a [CNBC](#) article titled "[GOP Sens Pat Toomey and Rick Scott slam fellow Republican Marco Rubio's tax proposal](#)"

"Senator Portman's bill does not change that the president has unilateral power to impose tariffs under Section 232. One bill restores this responsibility to Congress; one does not."

— from a [Wall Street Journal](#) article titled "[Congress Mulls Curbing Presidential Trade Authority](#)"

"I will say it seems exactly equivalent to me to confiscating the property of somebody, in this case their ownership in a business, and redistributing that confiscated asset to whoever they choose. It's a very, very bad idea for America to take any steps down the road towards socialism. This is very much an idea of that ilk. In fact, it's a big step in the direction of a collectivist, socialist economy and we should reject this out-of-hand."

— from a [Washington Wire](#) article titled "[Sen. Toomey On Dems Stock Buyback Limits: A 'Big Step' Towards Socialism](#)"

"Without an adequate proposal to meaningfully lower the regulatory burden, we will have serious concerns with your nomination... As we continue to evaluate your nomination to be administrator, it is important that we have a better understanding of your views and approach to administering the RFS and the agency actions you believe could alleviate costs."

— an excerpt from a letter to EPA nominee Andrew Wheeler, sent by five senators including Sen. Toomey, as reported in the [Bloomberg](#) article titled "[Senate Republicans Threaten Wheeler's Confirmation Over Biofuel](#)"

Senator Toomey also expressed a variety of thoughts about the Green New Deal resolution introduced late last week. Here are some of his comments from the [1210 WPHT](#) article titled "[Sen Pat Toomey Finds Green New Deal Ridiculous.](#)"

- "They are having rallies about this. They're endorsing it. Every Democratic presidential candidate from the U.S. Senate has endorsed this idea. I think we absolutely should have a debate about this and have a vote. Do you really think this is where we should go? Planes can't fly and cars can't drive? We can use bicycles, I suppose."
- "We want to have the debate in public, in the open, on the Senate floor...and we want it to be followed by a vote so people are accountable...in the senate for what they're doing? And that, somehow, is avoiding debate? It's ridiculous,"
- "(The American people) will be appalled. And what the Democrats want to do is keep the discussion at the level of Green New Deal. No more specificity than three words because those three words, they focus group pretty well. Green is a nice color, New Deal is thought of as a fond memory of FDR. Just keep it at that level and they're okay."
- "It tells you, obviously, that at least their perception of where the energy, where the juice is in the Democratic primary is on the very far left, and they're all tripping over each other to get there. It's hard to believe that this is taken seriously. Eliminating 80 percent of our power generation? It's just too ridiculous."

## Learning about Legislation - What is a national emergency?

We often discuss the balance of powers built into the Constitution, and how the Framers, ever fearful of unchecked tyranny, built a system where each of the three branches of the government were in some means constrained by the others. This is a system that has endured and thrived in normal circumstances, but what happens when something unusual occurs when decisive action must be swiftly implemented? As the incomparable Lin-Manuel Miranda wrote (from the '[The Room Where It Happens](#)') how do we "[grapple] with the fact that not ev'ry issue can be settled by committee?" In such cases the President generally steps in and Congress has granted the executive varying levels of deference for such emergencies.

Key to granting power is a definition of what constitutes an emergency. A *Congressional Research Service* [white paper](#) on the topic of National Emergency Powers describes an emergency in this manner:

In the midst of the crisis of the Great Depression, a 1934 Supreme Court majority opinion characterized an emergency in terms of urgency and relative infrequency of occurrence as well as equivalence to a public calamity resulting from fire, flood, or like disaster not reasonably subject to anticipation. An eminent constitutional scholar, the late Edward S. Corwin, explained emergency conditions as being those "which have not attained enough of stability or recurrency to admit of their being dealt with according to rule." During congressional committee hearings on emergency powers in 1973, a political scientist described an emergency in the following terms: "It denotes the existence of conditions of varying nature, intensity and duration, which are perceived to threaten life or well-being beyond tolerable limits." Corwin also indicated it "connotes the existence of conditions suddenly intensifying the degree of existing danger to life or well-being beyond that which is accepted as normal."

That same paper also shows, in the words of two presidents, how an executive's own view of the powers granted to them, and thus how they might act in an emergency, can differ drastically. Theodore Roosevelt felt that "executive power was limited only by specific restrictions and prohibitions appearing in the Constitution or imposed by the Congress under its constitutional powers." Compare that to his successor, William H. Taft's impression "that the President can exercise no power which cannot be fairly and reasonably traced to some specific grant of power or justly implied and included within such express grant as proper and necessary to its exercise." There is a wide range of interpretation between those two extremes.

After a series of presidential actions in the mid-20th century drew us into extended military conflicts (but not wars, since the Congress never declared them as such), in 1974 the Congress undertook the creation of the Special Committee on National Emergencies and Delegated Emergency Powers to assess what presidents were enabled to do under law, and then determine if this should be amended by statute. This resulted, eventually, in the 1976 National Emergencies Act. As described in a *Lawfare* [article](#):

First, the act revoked (two years after its enactment) any powers granted to the president under the four states of emergency still active at the time. Next, it prescribed procedures for invoking these powers in the future. No longer can a president give force to the hundreds of emergency provisions by mere proclamation. Instead, he must specifically declare a national emergency in accordance with the act and identify the statutory basis for each emergency power he intends to use. Each state of emergency is to end automatically one year after its declaration, unless the president publishes a notice of renewal in the Federal Register within 90 days of the termination date and notifies Congress of the renewal. Finally, the act requires that each house of Congress meet every six months to consider a vote to end the state of emergency.

Unfortunately, the Congress has never exerted itself to perform that 'every 6 month' review of existing emergencies, and there are [31 national emergencies still in effect](#) that presidents continue to renew and Congress has never bothered to end.

*The Atlantic* has produced an amazing [article](#) titled “The Alarming Scope of the President's Emergency Powers” that should be required reading (or listening - they have an audio link tucked into that article for those who, like me, prefer to listen to long form journalism) now that President Trump has declared a national emergency to raid the military budget to fund his wall. That piece explains:

The moment the president declares a “national emergency”—a decision that is entirely within his discretion—more than 100 special provisions become available to him. While many of these tee up reasonable responses to genuine emergencies, some appear dangerously suited to a leader bent on amassing or retaining power. For instance, the president can, with the flick of his pen, activate laws allowing him to shut down many kinds of electronic communications inside the United States or freeze Americans’ bank accounts. Other powers are available even without a declaration of emergency, including laws that allow the president to deploy troops inside the country to subdue domestic unrest.

This edifice of extraordinary powers has historically rested on the assumption that the president will act in the country’s best interest when using them. With a handful of noteworthy exceptions, this assumption has held up. But what if a president, backed into a corner and facing electoral defeat or impeachment, were to declare an emergency for the sake of holding on to power? In that scenario, our laws and institutions might not save us from a presidential power grab. They might be what takes us down.

Thankfully, there is a way out of this... if Congress can be convinced to act. The Supreme Court, in the 1983 decision in [INS v Chadha](#), clarified the nature of Congress’s role in relation to veto powers. Thus, the 1976 National Emergencies Act was adjusted to show how an emergency declared by a president may be brought to an end by the Legislative branch. Congress may compose and pass a joint resolution to end a national emergency. It must be able to withstand a presidential veto, so a supermajority of  $\frac{2}{3}$  would be needed in both houses.

Just such a [resolution](#) has been drafted by Rep. Joaquin Castro (D-Texas). Since he released it on Friday afternoon in draft form, it has yet to receive an official joint resolution number. It reads as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, pursuant to section 202 of the National Emergencies Act (50 U.S.C. 1622), the national emergency declared by the finding of the President on February 15, 2019, in the proclamation entitled “Presidential Proclamation on Declaring a National Emergency Concerning the Southern Border of the United States” is terminated on the date of enactment of this resolution.

It’s now up to us to pressure our legislators to support such an effort. Speaking of which...

## **Call to Action - RESIST THIS FAKE NATIONAL EMERGENCY!**

If you are a reader who comes to us via your affiliation with Indivisible, you know that we came together in response to the election of Donald Trump, because we were afraid of the “slow moving coup” that we could all see was inherent in his candidacy. Up until now he and his administration have done things that were antithetical to the norms and ideals of our nation, but this action is a direct assault on the separation of powers built into the Constitution. As House Judiciary Chairman Jerry Nadler said in his [letter](#) to President Trump dated February 15, 2019:

We believe your declaration of an emergency shows a reckless disregard for the separation of powers and your own responsibilities under our constitutional system. The Constitution vests the Congress with the power of the purse and expressly provides that “no money shall be drawn from the Treasury, but in consequence of appropriations made by law.” Congress has entrusted you and your predecessors with emergency authority in order to respond quickly and effectively to real crises, such as wars and natural disasters. The Judiciary Committee, which has jurisdiction over the National Emergencies Act, did so based on an understanding that the President would “Take care that the laws be faithfully executed” and would resort to this authority only when absolutely necessary. By

fabricating an emergency in order to bypass the political process for allocating a budget, you appear to be abusing both this trust and your own oath of office.  
This is the real deal, folks. We cannot afford to let this abuse of power go unopposed by the people.

### **What you can do:**

1. **Go to a protest on Monday, February 18th!** Indivisible, MoveOn and a coalition of other crisis response networks have called for nationwide protests this Monday. **Find an event near you [HERE](#).** (FYI *I am one of the organizers of the event taking place at our favorite spot for a protest, Rep. Brian Fitzpatrick's parking lot in Langhorne at 5PM on Monday. See you there!*)

### **2. Keep calling/emailing/tweeting/ faxing(?)/stopping by the offices all three of your MoCs!**

- Thank Bob Casey for resisting this fake national emergency.
- Let Pat Toomey know that since he is spending so much time opposing a president's unilateral action on trade issues, he should be equally motivated to stop a President who wants to unilaterally bypass Congress's constitutional authority on budget issues. When asked about a then-hypothetical national emergency declaration last month, Toomey said "[It's not what the emergency authority is intended for and I think it's a dangerous precedent.](#)" Tell him to stand against it now that it is no longer hypothetical.
- Tell Brian Fitzpatrick, who has yet to acknowledge the president's declaration, how you feel and push him to make a statement.

3. **Keep on top of the news through trusted sources!** This is a fluid, fast-moving situation. We are going to see new resolutions introduced, court challenges and evolving statements from our MoCs. Keep an eye on your MoCs' social media feeds and websites to see what they are saying and doing, and respond accordingly.

Thanks for reading up on what our Pennsylvania Members of Congress have been doing this past week. We're delighted to have you as a reader. If you liked what you read here and think others need to keep up with our MoCs, please share our website - <http://www.patogether.org/congress.html>  
Or you can head over to Twitter and search for #MoCTrack and retweet what you see there.

This report brought to you by the PA-01 MoCTrack team...

Elayne Baker

Gary Garb

Kathy Sikes

Kierstyn Piotrowski Zolfo

Are you an introvert activist looking for ways to help a progressive effort that don't involve phone calls, door knocking, or leaving your house? We are always seeking additional assistance. Our Congresspeople are always busy and there is always more for us to cover — tasks big (example - what traditional media is saying about your MoC) and small (example - what's your MoC tweeting about) 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!