

PA-01 Member of Congress Tracking Report - 12/22/19

This is a 100% volunteer effort brought to you by a handful of progressive Democrats and Independents who share a vision of an informed electorate. We want to offer a big thank you to the [Pennsylvania Together](#), [Pennsylvania Statewide Indivisible](#) and [Demcast](#) 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
Senator Bob Casey (D)	28.3%	0.0%
Senator Pat Toomey (R)	88.0%	0.0%
PA-01 Rep. Brian Fitzpatrick (R)	66.2%	+0.2%

Nate Silver's [FiveThirtyEight website](#) assesses the voting records of our MoCs to provide this index, by comparing any legislation where President Trump has stated a position, and comparing the vote of each MoC to the President's opinion. Four House votes were scored this week - the pair of impeachment articles, the USMCA trade agreement and a bill reversing a section of the GOP Tax Plan from 2017.

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.

Votes of Interest

The President is Impeached

* [House Vote](#) on [Article I of H. Res. 755](#): Impeaching Donald John Trump, President of the United States
* [House Vote](#) on [Article II of H. Res. 755](#): Impeaching Donald John Trump, President of the United States
* [House Vote](#) on Motion to Table [H.Res. 770](#): Disapproving the manner in which Chairman Adam B. Schiff of the Permanent Select Committee on Intelligence and Chairman Jerrold Lewis Nadler of the Committee on the Judiciary have conducted committee action during the impeachment inquiry of P.

By now you will have been inundated with more info than you could possibly want to read about the House impeachment votes, and you will know that our Pennsylvania lawmakers voted along party lines. Instead of covering that pair of votes, let's look instead at the third vote noted above, which got little to no news coverage in the run-up to the big impeachment votes.

On the same day that the House considered the Articles of Impeachment, House Minority Leader Kevin McCarthy introduced a resolution to condemn both House Intelligence Chairman Adam Schiff and House Judiciary Chair Jerry Nadler. Many of the complaints included in this resolution are ones that various Republican Members of Congress carped about during the public hearings. Those include their demands that they are required to get a minority hearing day (they aren't), that the two Chairmen limited some GOP questioning (which they did, to prevent the improper outing of the whistleblower), and that they also interrupted GOP questioning of witnesses (again, just to protect the whistleblower's identity). Most of this content continued the trend of the Republicans, being unable to defend the president on the merits of this impeachment charges, making unending process complaints.

But tucked into this resolution was one particularly interesting tidbit:

Chairman Schiff compelled the production of documents from AT&T and Verizon and, in violation of clause 2(k)(6) of rule XI of the Rules of the House of Representatives, publicly used these documents to smear the personal attorneys of the President, a journalist, and to create a false narrative about a sitting Member of Congress and current and former congressional staff

Two of the unnamed parties mentioned in this excerpt are Rudy Giuliani and Rep. Devin Nunes. If you'd like to read about the situation that Kevin McCarthy was referring to, try out this *Washington Post* piece titled "[The chain of phone calls that kept Giuliani at the center of Trump's Ukraine pressure.](#)"

The Republicans tried to force this bill to the floor, but a Motion to Table was called. That is the procedure that essentially dismisses legislation. So, a YES vote on a Motion to Table means that the lawmaker wants the resolution tossed into the garbage, and a NO vote indicates support. Kevin McCarthy brought up this measure the morning of the impeachment vote, on Wednesday, December 18, 2019. The Motion to Table vote passed, 226-191. The vote was almost entirely on party lines, with Democrats voting YES and Republicans voting NO. The only Democrat to vote YES was Minnesota Rep. Collin Peterson, who went on to side with the GOP on impeachment later in the day. **Fitzpatrick voted NO.**

Congress averts a shutdown, in Three Parts

The three sets of votes noted below are why we aren't living through a second holiday season shutdown. Each year the Congress has to pass a cluster of 12 separate spending bills to fund the government. Those are called [appropriations bills](#). The fiscal year for the federal government starts on October 1st each year, so since no agreement had been come to on those appropriations, the Congress had been passing continuing resolutions, which means that they keep spending at existing levels. Those [continuing resolution](#), or CRs, are legislative procrastination (or, more charitably, allowing for more negotiation time). We have already seen a couple of CRs since the fall, leading up to the December 20th deadline.

A few more legislative tidbits about this set of bills. In many articles they talk about those 12 big appropriation bills being divided into two big chunks. Technically, that is true. The reason I lumped in the Defense Authorization (NDAA) to this discussion is because [last week](#) the Congress stripped out a cluster of contentious provisions from the NDAA and let the two appropriations bills from this week cover those topics. That links them together. Also, if you were to go online and look up the pair of appropriations bills, you'd see that one shows up as if it were a bill about "DHS Cyber Hunt and Incident Response Teams Act" and the other appears as the "National Law Enforcement Museum Commemorative Coin Act. This is one of those cases where the Congress took existing legislation that had made it to a certain point in the legislative process, slipped out the original text, and replaced it with the appropriations bill text. It's a weird bit of administrative business that lets them hasten the voting process on time sensitive bills.

Now, on to content! *Politico* presents this as a "nearly \$1.4 trillion, two-part spending deal" that "will boost federal budgets by a total of \$49 billion." The same article also notes that on the topic of the southern border wall funding (which had stymied negotiations on the NDAA, and was subsequently punted into this pair of bills), "two parties struck a compromise to funding the U.S.-Mexico barrier at about \$1.4 billion."

The New York Times presented some additional content about priorities from this spending agreement. Bullet points below are quotes taken from their article, "[Spending Deal to Avert Shutdown Carries Key Priorities for Both Parties:](#)"

- "Funding for President Trump's immigration policies remains largely unchanged."
- "They put no limitations on the president's ability to transfer funds from other Pentagon accounts"
- "Taxes that were intended to help pay for President Barack Obama's signature health care law — the so-called Cadillac tax, the health insurance tax and the medical device tax — will be permanently eliminated."

- “Gun violence research will receive funding for the first time in more than two decades.”
- “The age to buy tobacco products will be raised to 21.”
- “Lawmakers set a May deadline to negotiate a compromise on surprise medical billing and drug prices.”
- “Lawmakers also negotiated temporary increases in federal matching rates for Medicaid for American territories”
- “Lawmakers also negotiated... restoring a pension fund for retired miners and health benefits that was at risk as a result of coal companies going bankrupt.”
- “Less than a year before the 2020 vote, lawmakers agreed to \$425 million for election security.”
- “Congress also agreed to allocate \$7.6 billion for the Census Bureau to conduct the 2020 census.”

At the close of this process, Senate Majority Leader Mitch McConnell released a [statement](#) wherein he said this: “There are two timeless truths about the appropriations process in divided government. First, neither side will ever get what they would consider to be perfect bills. But second, full-year funding definitely beats drifting endlessly from CR to CR.” It is rare to agree with McConnell on anything, but he is correct that setting a budget is far better than living with the monthly looming threat of a CR resulting in yet another Trump shutdown.

So... How did our lawmakers vote?

Part One

[Senate Vote](#) on [S. 1790](#): National Defense Authorization Act for Fiscal Year 2020

The conference committee version of this had passed the house last week. The Senate vote took place on Tuesday, December 17, 2019. It passed 86-8. Those NO votes were equally split between Republicans and Democrats. **Casey voted YES** and **Toomey voted YES**.

Congress averts a shutdown, Part Two

[House Vote](#) on [H.R. 1158](#): Consolidated Appropriations Act, 2020

[Senate Vote](#) on [H.R. 1158](#): Consolidated Appropriations Act, 2020

The House Vote was taken on Tuesday, December 17, 2019, and it passed 280-138. This is one of those rare bills that saw roughly equal levels of dissent in both parties. Roughly one-third of MoCs of each party (75 of 225 Dems; 69 of 192 GOP) present for the vote opposed the measure. The PA voting breakdown split in a fairly interesting manner. Of PA’s GOP MoCs, **Fitzpatrick voted YES**, and he was joined by the unlikely trio of PA-09’s Dan Meuser, PA-14’s Guy Reschenthaler and PA-15’s GT Thompson.

The Senate took up the bill on Thursday, December 19, 2019 and it passed 81-11. Those eleven NO votes came from four GOP and seven Democratic senators. **Casey voted YES** and **Toomey voted YES**.

Congress averts a shutdown, Part Three

[House Vote](#) on [H.R. 1865](#): Further Consolidated Appropriations Act

[Senate Vote](#) on [H.R. 1865](#): Further Consolidated Appropriations Act

This House Vote was also taken on Tuesday, December 17, 2019, and it passed 297-120. Almost all of the dissent on this bill came from the GOP. Only 7 Democrats voted NO, and they were joined by around two-thirds of the GOP caucus (112). **Fitzpatrick voted YES**, and he was joined by PA-14’s Guy Reschenthaler and PA-15’s GT Thompson.

The Senate voted on Thursday, December 19, 2019 and it passed 71-23. **Casey voted YES** and **Toomey voted NO**.

President Trump’s long-touted trade deal, the USMCA, passes the House

[House Vote](#) on [H.R. 5430](#): United States-Mexico-Canada Agreement Implementation Act

President Trump's USMCA, the trade agreement that will replace NAFTA, is a measure that is nearly four years in the making, if one starts with Trump's campaign promises to get rid of the existing agreement. Instead, MoCTrack would like to point you to a curated list of reading materials for more information:

- [The official government explainer](#), courtesy of the office of the US Trade Representative
- [A political history](#) of how the legislation was negotiated, from the *Washington Post*
- [Winners and Losers](#), from *Reason*
- [A labor leader's opinion](#), from the president of the AFL-CIO, in *CNN*
- [A free trader's take](#), from our own Sen. Pat Toomey in the *Wall Street Journal*
- [A finance reporters' analysis](#), from *Forbes*

The most useful short recap of what is contained in the USMCA came from [Vox](#). They report that the USMCA includes new country of origin rules, improved labor laws, extended intellectual property protections, a six-year renegotiation point and a sunset of sixteen years.

The House vote was held on Thursday, December 19, 2019 and it passed with overwhelming support, 385-41. Those NO votes were from 38 Democrats, 2 GOP lawmakers and the lone House Independent. Our Pennsylvania delegation was unanimous in their support of the USMCA. **Fitzpatrick voted YES.**

The USMCA trade agreement now goes to the Senate for approval.

One provision of the GOP Tax Scam is reversed in the House

[House Vote](#) on [H.R. 5377](#): Restoring Tax Fairness for States and Localities Act

One of the pieces of the 2017 GOP Tax Scam that was the most contentious was the provision that would limit the cap on tax deductions for state and local tax (SALT). The 2017 tax bill capped those deductions at \$10,000. From the [Philadelphia Inquirer](#):

Lawmakers from New Jersey, which has the highest average property taxes in the nation, and other high-tax states, such as New York, Connecticut, and California, have complained that the change had a significant and unfair impact on their constituents.

The House, controlled by Democrats, voted largely along party lines to remove the \$10,000 cap on state and local tax (SALT) deductions for tax years 2020 and 2021. For tax year 2019, it would raise the cap for married couples filing taxes jointly to \$20,000. The \$10,000 cap would remain in place for taxpayers who earn more than \$100 million, money that would pay for \$500 tax breaks for teachers and first responders.

In a vote taken on Thursday, December 19, 2019, this bill passed 218-206. While this was supported mostly by Democrats and opposed by Republicans, the vote was not a party line affair. Sixteen Democrats crossed party lines to vote NO, while five Republicans voted YES. **Fitzpatrick voted YES.**

Nonpartisan judicial confirmation votes

This week the Senate confirmed dozen new judges to lifetime appointments in the federal judiciary. The following eight confirmations were made with the support of over three-quarters of Senators present.

For the sake of brevity, we'll skip the detail:

- The Senate confirmed [Anuraag Singhal](#) to the federal courts in Florida on 12/19/19, in a vote of 76-17. **Casey voted YES** and **Toomey voted YES.**
- The Senate confirmed [Karen Spencer Marston](#) to the federal courts here in Pennsylvania on 12/19/19, in a vote of 87-6. **Casey voted YES** and **Toomey voted YES.**
- The Senate confirmed [Jodi W. Dishman](#) to the federal courts in Oklahoma on 12/19/19, in a vote of 75-17. **Casey voted YES** and **Toomey voted YES.**
- The Senate confirmed [John M. Gallagher](#) to the federal courts here in Pennsylvania on 12/19/19, in a vote of 83-9. **Casey voted YES** and **Toomey voted YES.**

- The Senate confirmed [Bernard Maurice Jones II](#) to the federal courts in Oklahoma on 12/19/19, in a vote of 91-3. **Casey voted YES** and **Toomey voted YES**.
- The Senate confirmed [Mary Kay Vyskocil](#) to the federal courts in New York on 12/19/19, in a vote of 91-3. **Casey voted YES** and **Toomey voted YES**.
- The Senate confirmed [Kea Whetzal Riggs](#) to the federal courts in New Mexico on 12/19/19, in a vote of 94-0. **Casey voted YES** and **Toomey voted YES**.
- The Senate confirmed Gary Brown to the federal courts in New York on 12/19/19, via a voice vote (which presumes unanimity). It can be inferred that **both Casey and Toomey voted YES**.

Contentious judicial vote #1

[Senate Confirmation Vote](#) on Matthew McFarland to be United States District Judge in Ohio
This judicial nominee fits the mold of the typical Trump Administration pick in that he is a white male with a deep background in anti-choice organizations and other conservative affiliations.

[NARAL Pro-Choice America](#) wrote up a dossier on McFarland that includes:

- “In his initial Senate Judiciary Committee questionnaire, McFarland disclosed that he was a member of the Scioto County Right to Life organization in 1997. However, an article from 2004 states that McFarland noted in his 2004 campaign literature that “he’s an avid Second Amendment supporter and a member of his county’s Right to Life group.” McFarland later amended his questionnaire to disclose that he was a Right to Life member from approximately 1997 to 2004.”
 - “The Scioto County Right to Life group lists their mission as “to promote and defend the right to life of all innocent human beings, from the time of fertilization until natural death.”
- “In his personal capacity, McFarland volunteered for the campaign of Betty Montgomery to be attorney general of Ohio. Montgomery, a Republican, “helped write and successfully defend” Ohio’s so-called “partial-birth abortion ban.”

On top of that, the [Vetting Room](#) notes that the nominee “...has a few donations of record, all to Ohio Republicans. In addition, McFarland has been a member of many conservative organizations, including the Federalist Society, the National Rifle Association, and the Scioto County Right to Life.”

McFarland was confirmed in a 56-38 vote on Wednesday, December 18, 2019. Four Democrats crossed party lines to vote for him alongside all of the Republicans. **Casey voted NO** and **Toomey voted YES**.

Contentious judicial vote #2

[Senate Confirmation Vote](#) on Daniel Mack Traynor to be United States District Judge in North Dakota
This judicial nominee has a fairly standard (if low key) work history and educational background, having clerked for a judge on his state’s supreme court and worked in private practice for over 20 years. What apparently made him objectionable is the outspoken, partisan content on his social media presence. [Alliance for Justice](#) collected some of his tweets about which they wrote, “In the past few years, Traynor has frequently taken to Twitter to criticize liberals on health care and immigration, spread right-wing conspiracy theories, and show his strong support for President Trump and his agenda.” Here are some examples (using framing provided by the Alliance for Justice):

- The day after President Trump was elected, Traynor tweeted, “It feels good to be deplorable. #MAGA.”
- In response to questions asked by Lester Holt during a presidential debate between Hillary Clinton and Donald Trump, Traynor retweeted Ann Coulter: “So great that Lester isn’t wasting time on trivial issues like immigrants accepting welfare, taking jobs, killing Americans.”
- Traynor retweeted a link to an article regarding Hillary Clinton that stated, “what a bad idea for a political party to knowingly nominate someone who is likely guilty of criminal offenses.”
- In a response to a tweet that is now unavailable, Traynor tweeted, “And a Federal Circuit Court Judge. That bunch are all drunks.” This tweet has since been deleted from his account.

- In response to an article about the ACLU's opposition to a North Dakota ethics measure, Traynor tweeted, "That ACLU is one bad ass momma." The tweet has since been deleted from his account.

Such comments make it questionable that this nominee could maintain the political impartiality necessary for members of the judiciary. But, in a vote taken on Thursday, December 19, 2019, Traynor was confirmed in a 50-41 vote. This vote was entirely on party lines. **Casey voted NO** and **Toomey voted YES**.

A pair of peculiar outcomes for judicial confirmations

[Senate Confirmation Vote](#) on Robert J. Colville to be United States District Judge in Pennsylvania
[Senate Confirmation Vote](#) on Lewis J. Liman to be United States District Judge in New York

If you look back through all of the judicial confirmations that we have covered here in MoCTrack, the typical voting pattern is that the nominee will get unanimous or near-unanimous support from Republicans (with Susan Collins of Maine as the lone GOP holdout) and opposition from most Democrats (with Alabama's Doug Jones, Arizona's Kyrsten Sinema and West Virginia's Joe Manchin as the likely Dem contrarians). This pair of nominees, however, saw a very different pattern for this GOP-led Senate. Both judicial nominees received unanimous support from the Democrats present, with the Republicans split down the middle.

The [Vetting Room](#) explains why, for the Liman nomination:

The judicial nomination process often involves deal-making, where nominations are logrolled together to satisfy different stakeholders. A perfect example of this is with regard to the 8-nominee New York package put together by the White House in consultation with Democratic Senators Chuck Schumer and Kirsten Gillibrand. As part of the package, the White House has nominated a candidate they wouldn't otherwise consider: Lewis Liman... Liman is a Democrat and a more liberal candidate than most Trump will put forward. However, it is far from uncommon for Presidents to nominate judges of the opposing party to the bench.

As for the Colville nomination, there is some opposition amongst the more conservative members of the Senate Republican caucus. He had previously been nominated for a judicial seat under President Obama, and a number of GOP senators are unhappy because of his support for abortion rights.

Judge Liman was confirmed on Thursday, December 19, 2019 in a 64-29 vote and Judge Colvill was confirmed that same day in a 66-27 vote. In both cases all the NO votes came from Republicans. **Casey voted YES** and **Toomey voted YES** on both of these confirmations.

Unanimously passed legislation

The following bills were passed through unanimous consent or voice vote (which presumes unanimity, as any member can object to the voice vote and ask for a roll call). This list excludes bills related to post offices, stamps, memorials, awareness weeks and other ceremonial activities.

- [H.R. 453](#) - Eastern Band of Cherokee Historic Lands Reacquisition Act
- [H.R. 2647](#) - Safer Occupancy Furniture Flammability Act
- [H.R. 3172](#) - Safe Sleep for Babies Act
- [H.R. 3362](#) - Small Airport Mothers' Rooms Act
- [H.R. 4227](#) - Mapping Accuracy Promotes Services Act
- [H.R. 4229](#) - Broadband Deployment Accuracy and Technological Availability Act
- [H.R. 4920](#) - Department of Veterans Affairs Contracting Preference Consistency Act
- [H.R. 4998](#) - Secure and Trusted Communications Networks Act
- [S. 50](#) - Columbia River In-Lieu and Treaty Fishing Access Sites Improvement Act

- [S. 216](#) - Spokane Tribe of Indians of the Spokane Reservation Equitable Compensation Act
- [S. 2824](#) - Artistic Recognition for Talented Students Act
- [H.R. 777](#) - Debbie Smith Reauthorization Act of 2019
- [H.R. 2726](#) - Banning Smoking on Amtrak Act
- [H.R. 4719](#) - Funding Instruction for Safety, Health and Security Avoids Fishing Emergencies Act
- [S. 2774](#) - Veteran Treatment Court Coordination Act
- [S. 153](#) - Supporting Veterans in STEM Careers Act
- [H.R. 2476](#) - Securing American Nonprofit Organizations Against Terrorism Act
- [S. 439](#) - Members of Congress Pension Opt Out Clarification Act
- [S. 1029](#) - Courthouse Dogs Act
- [S. 1309](#) - Combating Global Corruption Act
- [S. 1434](#) - Construction Consensus Procurement Improvement Act
- [S. 1608](#) - Promoting Physical Activity for Americans Act
- [S. 1822](#) - Broadband Deployment Accuracy and Technological Availability Act
- [S. 3147](#) - Improving Safety and Security for Veterans Act
- [H.R. 4779](#) - To extend the Undertaking Spam, Spyware, And Fraud Enforcement with Enforcers beyond Borders Act of 2006
- [S. Con. Res. 31](#) - A concurrent resolution recognizing the importance and significance of the 2020 Census and encouraging individuals, families, and households across the United States to participate in the 2020 Census to ensure a complete and accurate count

Rep. Fitzpatrick's official statement on the impeachment of President Trump

● PA-01's Rep. Brian Fitzpatrick, from his [official website](#), 12/17/19:

"Second only to declaring war, impeaching a President and overturning the results of an election is the most significant action that Congress can take. Impeachment is a constitutional nuclear option of last resort. Historical precedent demands that this only occurs in the most extreme of circumstances and should happen only after a formal law enforcement investigation where independent, non-partisan factual findings of criminal activity are presented to Congress.

As a former FBI Supervisory Special Agent and Special Assistant U.S. Attorney, any legitimate investigation must be completely nonpartisan, must be 360 degrees in its scope, must leave no stone unturned, must not prejudge the outcome, must follow the facts wherever they lead and must report those facts with unimpeachable integrity.

None of those elements have occurred here. This rushed impeachment inquiry was poisoned from the very start when House leadership made the irresponsible decision to place this investigation in the hands of Chairman Schiff's Intelligence Committee rather than referring the matter to law enforcement to conduct the fact-finding. In addition to dangerously politicizing an incredibly important national security committee, which will take years to recover from, this irresponsible decision broke with long-standing historical precedent in our nation regarding impeachment inquiries on multiple fronts. As a result, we were left with partisan politicians from both parties arguing over presumptions and perceptions rather than having an indisputable evidentiary record and bipartisan agreement on the facts.

In March of this year, Speaker Pelosi told the Washington Post, "Impeachment is so divisive to the country that unless there's something so compelling and overwhelming and bipartisan, I don't think we should go down that path, because it divides the country." Chairman Nadler himself has stated, "There must never be a narrowly voted impeachment or an impeachment substantially supported by one of our major political parties and largely opposed by the other. Such an impeachment would lack legitimacy, would produce divisiveness and bitterness in our politics for years to come. And will call into question the very legitimacy of our political institutions."

Let me be clear: President Trump's call with President Zelensky showed poor judgement. Law enforcement matters must always remain separate and distinct from political matters. Decisions on whether to open a law enforcement investigation, whether to close a law enforcement investigation and what investigative steps to take in conducting an ongoing law enforcement investigation, are decisions that should be made by law enforcement and law enforcement alone. This is necessary both for the substantive integrity of an investigation as well as maintaining the public's trust and confidence in the results of an investigation.

This impeachment inquiry has violated every investigative principle, has violated Speaker Pelosi and Chairman Nadler's own impeachment standard, has been entirely partisan, and has been wholly divisive. From the very start it was never designed by House leadership to be a genuine fact-finding mission. By pursuing an entirely partisan path with an artificial timeline and a predetermined outcome, and with the issue at hand being as serious as the overturning of the results of an election, House leadership has set a very dangerous precedent for our nation, and one which I will not support.

It is incumbent upon all of us in our community, regardless of how you have viewed this entire situation, to do our part to heal our nation from this very divisive environment. Our nation cannot sustain the divisive tone that we are currently experiencing. We must talk to each other and treat each other with respect, we must try to see the world through other people's eyes, and we must never forget that there is far more that unites us as Americans. Each and every one of us must do our part to lower the volume and to bridge the gap. Each and every one of us has a responsibility to hold ourselves to this high standard. The future of our democracy, and the future of our nation, depends on it."

Twitter Action

Contributed by [@ElastigirlVotes](#)

Twitter Action - USMA/ trade

● Senator Pat Toomey, [@SenToomey](#), [12/19/19](#):

"Happening now: I'm speaking at [@AEI](#) detailing my opposition to #USMCA. Live stream available at the link below." *Tweet quotes American Enterprise Institute tweet.*

 AEI  [@AEI](#) · Dec 18
Tomorrow: Does the US-Mexico-Canada Agreement fall short on free trade? A forum with [@SenToomey](#) buff.ly/2r0YSdm

● PA-01's Rep. Brian Fitzpatrick, [@RepBrianFitz](#), [12/19/19](#):

"Big win for the USA"

Tweet quotes a Ways and Means GOP tweet.

"Christmas came early for the American people! After almost a year of delays, #USMCA finally passed out of the House. Now what happens? WATCH 

Twitter Action - ACA/ healthcare

● Senator Bob Casey, [@SenBobCasey](#), [12/20/19](#):

"This week, the 5th Circuit made the obscene decision to punt the ACA lawsuit back to the lower courts. If the ACA is overturned, it would be devastating to the 858,000 Pennsylvanians who may lose their coverage, and the 5,329,500 Pennsylvanians with a pre-existing condition."

PROTECT OUR CARE

Trump-Backed Texas Lawsuit Would Devastate Pennsylvanians

President Trump is trying to rip away our health care by going to court to eliminate the Affordable Care Act in its entirety. If the Trump lawsuit is successful, it will strip coverage from millions of Americans, raise premiums, and protections for people with pre-existing conditions, put insurance companies back in charge, and force seniors to pay more for prescription drugs. The result will be to — as the Trump Administration itself admitted in court — unleash “chaos” in our entire health care system.

If Trump Gets His Way, 858,000 Pennsylvanians Would Lose Their Coverage

- **858,000 Pennsylvanians could lose coverage.** According to the Urban Institute, 858,000 Pennsylvanians would lose coverage by repealing the Affordable Care Act, leading to a 133 percent increase in the uninsured rate.
- **89,000 Pennsylvanians young adults with their parents' coverage could lose care.** Because of the Affordable Care Act, millions of young adults are able to stay on their parents' care until age 26.
- **Pennsylvanians would lose important federal health care funding — an estimated reduction of \$5.1 billion in the first year.** The Urban Institute estimates that a full repeal of the ACA would reduce federal spending on Pennsylvanians' Medicaid/CHIP care and Marketplaces subsidies by \$5.1 billion, or 32 percent in the first year.

If Trump Gets His Way, Insurance Companies Would Be Put Back in Charge, Ending Protections For The 130 Million People Nationwide With A Pre-Existing Condition

- According to a recent [analysis](#) by the Center for American Progress, roughly half of nonelderly Americans, or as many as 130 million people, have a pre-existing condition. This includes:
 - 44 million people who have high blood pressure
 - 45 million people who have behavioral health disorders
 - 44 million people who have high cholesterol
 - 34 million people who have asthma and chronic lung disease
 - 34 million people who have osteoarthritis and other joint disorders
- **5,329,500 Pennsylvanians have a pre-existing condition,** including 642,700 Pennsylvania [children](#), 2,595,000 Pennsylvania [women](#), and 1,899,900 Pennsylvanians between ages 55 and 64.

If Trump Gets His Way, Insurance Companies Would Have The Power To Deny, Drop Coverage, And Charge More Because Of A Pre-Existing Condition

Before the Affordable Care Act, insurance companies routinely denied people coverage because of a pre-existing condition or canceled coverage when a person got sick. If the Trump-OOP lawsuit is successful, insurance companies will be able to do this again.

- A 2010 congressional report found that the top four health insurance companies [denied coverage to one in seven consumers](#) on the individual market over a three-year period.
- A 2009 congressional report found that the largest insurance companies had retroactively canceled coverage for [20,000 people](#) over the previous five-year period.
- An analysis by [Aetna](#) finds that 702 million individuals, not enrolled in major public programs like Medicaid or Medicare, have a pre-existing medical condition and could therefore face higher premiums or significant out-of-pocket costs if the Trump-OOP lawsuit is successful.

If Trump Gets His Way, Insurance Companies Would Have The Power To Charge You More, While Their Profits Soar

- **6,127,383 Pennsylvanians could once again have to pay for preventive care.** Because of the ACA, health plans must cover preventive services — like flu shots, cancer screenings, contraception, and mammograms — at no cost to consumers. This [includes](#) nearly 6,127,383 Pennsylvanians, most of whom have employer coverage.
- **Insurance companies could charge premium surcharges in the six figures.** If the Trump-OOP lawsuit is successful, insurance companies would be able to charge people more because of a pre-existing condition.
Protect Our Care | July 2019

health repeal bill the House passed in 2017 had a similar provision, and an analysis by the Center for American Progress found that insurers could charge up to [\\$4,270 more for asthma](#), [\\$17,060 more for pregnancy](#), [\\$70,180 more for rheumatoid arthritis](#), and [\\$149,610 more for metastatic cancer](#).

- **Women Could Be Charged More Than Men for the Same Coverage.** Prior to the ACA, women were often charged premiums on the nongroup market of up to [50 percent higher](#) than they charged men for the same coverage.
- **People Over the Age of 50 Could Face a \$4,000 "Age Tax," Including \$3,917 in Pennsylvania.** Because Judge O'Connor sided with Republican lawmakers, insurance companies would be able to charge people over 50 more than younger people. The Affordable Care Act limited the amount older people could be charged to three times more than younger people. If insurers were to charge five times more, as was proposed in the Republican repeal bills, that would add an average "age tax" of [\\$4,124](#) for a 60-year-old in the individual market, including [\\$3,917](#) in Pennsylvania, according to the AARP.
- **307,895 Pennsylvanians in the Marketplaces Would Pay More for Coverage.** If the Trump-OOP lawsuit is successful, consumers would no longer have access to tax credits that help them pay their marketplace premiums, meaning roughly [seven million people](#) who receive these tax credits to pay for coverage will have to pay more, including 307,895 in Pennsylvania.
- **276,804 Pennsylvania Seniors Could Have to Pay More for Prescription Drugs.** If the Trump-OOP lawsuit is successful, seniors could have to pay more for prescription drugs because the Medicare "donut" hole would be reopened. From 2010 to 2016, more than 118 million Medicare beneficiaries have received discounts over \$26.8 billion on prescription drugs — an average of [\\$2,272](#) per beneficiary, according to a [January 2017 CMS report](#). In Pennsylvania, 276,804 seniors each saved an average of [\\$137](#).

If Trump Gets His Way, Insurance Companies Would Have The Power to Limit the Care You Get, Even if You Have Insurance Through Your Employer

- **Insurance Companies Do Not Have to Provide the Coverage You Need.** The Affordable Care Act made comprehensive coverage more available by requiring insurance companies to include "essential health benefits" in their plans, such as maternity care, hospitalization, substance abuse care and prescription drug coverage. Before the ACA, people had to pay extra for separate coverage for these benefits. For example, in 2013, [75 percent](#) of non-group plans did not cover maternity care, [45 percent](#) did not cover substance abuse disorder services, and [38 percent](#) did not cover mental health services.
- **Reinstate Lifetime and Annual Limits On 4,582,000 Privately Insured Pennsylvanians.** Repealing the Affordable Care Act means insurance companies would be able to impose [annual and lifetime limits](#) on coverage for those insured through their employer or on the individual market.
- **Large Employers Could Choose to Follow Any State's Guidance, Enabling Them Put Annual and Lifetime Limits on Their Employees' Health Care.** Without the ACA's definition of essential health benefits (EHB) in even some states, states could eliminate them altogether. Large employers could [choose to apply](#) any state's standard, making state regulations essentially meaningless. Because the prohibition on annual and lifetime limits only applies to essential health benefits, this change would allow employers to reinstate annual and lifetime limits on their employees' coverage.

If Trump Gets His Way, Medicaid Expansion Would Be Repealed

- **800,900 Pennsylvanians Enrolled Through Medicaid Expansion Could Lose Coverage.** Seventeen million people have coverage through the expanded Medicaid program, including 800,900 in Pennsylvania.
- **Access To Treatment Would Be In Jeopardy For 800,000 People With Opioid Use Disorder.** Roughly four in ten, or 800,000 people with an opioid use disorder are enrolled in Medicaid. Many become eligible through Medicaid expansion.
- **Key Support For Rural Hospitals Would Disappear,** leaving Pennsylvania hospitals with [\\$18 billion](#) more in uncompensated care.

Protect Our Care | July 2019

Twitter Action - MoCs on Legislation

🌀 Senator Bob Casey, @SenBobCasey, [12/19/19](#):

“Permanent funding for minority-serving institutions was just signed into law! This will help ensure our critically important Historically Black Colleges and Universities, MSIs and Tribal institutions can continue supporting college completion and academic opportunity. #FUTUREAct”

● Senator Pat Toomey, @SenToomey, [12/18/19](#):

“Kim Jong-un is a ruthless thug whose nuclear & missile programs threaten us & our Asian allies. The best way to make him reverse course is through crippling sanctions. That's why @ChrisVanHollen & I wrote the Otto Warmbier BRINK Act, bipartisan legislation that gives banks a choice: do business with us, or North Korea. Not both. Our bill, named in honor of Otto Warmbier who was murdered by Kim's regime, is in this year's #NDAA & will finally become law. Thank you to all who helped in this effort. Especially Otto's parents Fred & Cindy, & my colleagues @ChrisVanHollen, @senrobertman & @SenSherrrodBrown.”



● PA-01's Rep. Brian Fitzpatrick, @RepBrianFitz, [12/20/19](#):

"Yesterday, @RepBrindisi and I introduced H.R. 5509. This bipartisan bill would list 7 drug cartels as foreign terrorist organizations. These cartels harm lives every day, and it is time we call them what they are: terrorists." *tweeted with a link his to [website statement](#)*

Tweet of the Week

● Senator Bob Casey, @SenBobCasey, [12/19/19](#):

"I have never known a 6-year old to be a threat to national security. @ICEgov, what excuse could you possibly have for locking up this innocent child for 176 days and counting? The number one priority should be her wellness – this is simply inhumane." *Tweet includes link to [Inquirer article](#).*



'Free Maddie.' A 6-year-old girl held at Berks detention center sparks a rallying ...
Her lawyers say a sweet, shy child once defined by a sparkling smile has become deeply depressed after nearly six months in federal detention
[inquirer.com](#)

● Senator Pat Toomey, @SenToomey, [12/17/19](#):

"Furthermore, if, as Ms. Fonda advocates, we stop exporting natural gas, then our trading partners would inevitably switch to coal for electricity production and become dependent on hostile authoritarian regimes, like Russia's." *Tweet includes [link](#) to a [The Hill Article](#).*

Casey in the News

Courtesy of contributor Linda Houk

"I have serious concerns about this proposed rule" ... "appears to be yet another attempt by the Trump administration to make it more difficult for people with disabilities to receive benefits."

—from an article on [TDN.com](#) titled "[Social Security proposal could cut off thousands](#)"

"For many older adults, choosing to remain in the workforce or retire is a personal decision. However, adults age 65 and over with disabilities are often stripped of this choice due to Medicaid age restrictions that force them to choose between continuing to work or losing their Medicaid coverage—which supports their daily living needs."

"Instead of forcing seniors with disabilities out of the workforce we should be supporting them by removing barriers that reduce their independence. That's why I worked with Senator Portman to introduce the SENIOR CARE Act, which would allow seniors with disabilities to work and keep their Medicaid coverage."

—from an article in [the News Journal](#) titled "[Stivers, Portman intro SENIOR CARE Act](#)"

"Virtually every cost in the life of a middle-class family is up and that dynamic is frankly one of the reasons why (Trump) won the last election... There was a frustration that neither party was addressing that basic problem."

—from an article on [Hot Air](#) titled "[Trump's Campaigning On The Roaring Economy. Here's How Democrats Plan to Stop Him.](#)"

"The GOP's hopes to destroy the ACA live another day... This is health care sabotage at its worst."

—from an article in [the Trib Live](#) titled "[Sen. Casey derides 'obscene lawsuit' to gut Affordable Care Act; patient advocates lament limbo](#)"

"We're really here to see a good program that helps our veterans that have done so much for us and there is just no way we can adequately repay them but the least we can do is make sure they have medical care, they have shelter, and have opportunities, for job opportunities and growth."

—from an article on [PA Home Page](#) titled "[Senator Casey Meets with Veterans](#)"

"As a juror I will carefully consider all of the evidence in accordance with my oath of office to support and defend the Constitution of the United States."

—from an article in [the Pocono Record](#) titled "[Cartwright, Wild approve articles of impeachment against Trump](#)"

Fitzpatrick in the News

"This process, unfortunately, has been flawed from the very beginning... I think that every witness that has relevant information and documents that are relevant, yes, should come to the forefront."

— from an article in Allentown's [WFMZ Channel 69 website](#) titled "[Local lawmakers weigh in on Trump impeachment](#)"

"I've just been very, very disappointed with how this has transpired because I haven't reached the conclusion I have because I don't view the allegation as serious, quite to the contrary," Fitzpatrick said. "The reason I'm here now is because I thought it was such a serious allegation that was treated in such a fundamentally unserious manner."

— from a [Washington Post](#) article titled "[GOP moderate refuses to defend Trump on Ukraine but won't back impeachment](#)"

"It is unacceptable that NDAA conferees were unable to reach a consensus on several critically important provisions involving PFAS contamination."

— from an article in the *Pennsylvania Capital-Star* titled [“PFAS provisions struck from must-pass defense bill, disappointing Pa.’s Dean & Fitzpatrick”](#)

“Congress must lead by example to ensure that workplaces are safe from harassment and discrimination for all congressional employees.”

— from an *NBC News* article titled [“One year after sexual harassment reforms, lawmakers seek to broaden protections on Capitol Hill”](#)

“It is great to see the Caucus come together on these bipartisan issues. These bills will deliver real results for the American people. I am glad to see the Problem Solvers endorse this package of bills, and I look forward to voting in favor of them on the House floor.”

— from an *InsideNJ* reprint of a press release titled [“Problem Solvers Caucus Continues to Prove Bipartisanship is Possible in Endorsements of Key Bills”](#)

One of our fabulous MoCTrack volunteers, CC, was kind enough to transcribe portions of [Rep. Fitzpatrick’s interview with Dom Giordano](#) on 1210 WPHT from Wednesday, December 18th. CC also helpfully provided timestamps, in case you want to follow the link and catch any portion of this interview with your own ears. She notes that any portions in italics are paraphrased as opposed to exact quotes. Thanks for providing this transcription, CC!

From timestamp 00:48

Dom Giordano: Do you get to speak? How is that determined—who comes up with the people who are gonna make the argument on the president’s side? I might say, I’m sorry, on the Constitution side.

From timestamp 00:55

Rep. Brian Fitzpatrick: It depends on what committee it’s currently in, so it’s currently [*... the debate ... the rule...*] so it’s in the Rules committee, then after that, since it’s the judiciary committee, they will be the ones speaking on that bill.

Dom Giordano: Since you were on, I wrote about what it was like on the committee that you were on and the attack of the two papers in Bucks county that I write for now was that you were not there for all of this so how would Rep Fitzpatrick know exactly what was going on in these meetings. I think your charge was, legitimately, they didn’t bring up X,Y or Z and that’s what you were calling them out on.

From timestamp 01:40

Rep. Brian Fitzpatrick: Man, I had a huge objection from Day 1 to the process. I’m a lifelong investigator, as you know, both as an FBI agent and a federal prosecutor. Any legitimate investigation must be totally non-partisan, it must be 360 degrees in its scope, it must leave no stone unturned, you can’t prejudice outcomes and you follow the facts wherever they lead.

What I am so fearful of today and it’s gonna come to fruition... This house leadership has been setting brand new precedents all along the path, first with no law enforcement investigation to start, which was the case with Nixon and with Clinton; it was not put in the committee of jurisdiction, which was supposed to be the judiciary committee immediately; no full open transparent hearings from the start; it was in a SCIF for the first six weeks or so, and now we’re set to have a pure party line vote on impeaching a president and overturn the results of an election, which I think sets a terrible and very dangerous precedent for our country.

Dom Giordano: *It’s like a no-confidence thing like we’re in Great Britain – that’s all that it’s come down to*

From timestamp 02:48

Rep. Brian Fitzpatrick: And my point to the press has been the question to the people who are voting Yes today is they are voting, in essence, to set a brand-new standard for impeachment. There's no longer an objective standard based on law enforcement findings of criminal activity. It is now the subjective You-know-it-when-you-see-it type standard and I think it's very dangerous.
[03:06]

Dom Giordano: *FBI... how is it that we got Struck and Paige.... How this happened over the course of time? They [FBI] would have rooted this out in the past. What do you think happened?*

From timestamp 03:48

Rep. Brian Fitzpatrick: Well, the reason every single federal agency has an OIG, Office Inspector General, is because unfortunately in any organization you're gonna have problems. There have been spies inside law enforcement, federal law enforcement in the past. It's just a matter of the OIG, in the FBI's case the OPR Office of Professional Responsibility, cracking down on this stuff. It's a huge problem. I think these people should be criticized, they should be removed and if the circumstances dictate, be prosecuted.

Dom Giordano: *Comey's excuse now is that he would not be looking at day to day of this case.... When it's president of US doesn't it behoove you to have you and McCabe quarterbacking this.... You have to check with them on the major things here right?*

From timestamp 05:00

Rep. Brian Fitzpatrick: There's no question. There's an internal playbook inside the FBI that's referred to as the DIOG, the Domestic Investigative and Operations Guidelines, which dictates just this, that there are certain quote-unquote sensitive investigative matters, or SIMs, that trigger the highest level of approval and this certainly absolutely falls within that category, so any time you're getting a wiretap on a case like this, approvals go right to the top.

Dom Giordano: *If it were you, you're checking with people on this, you're not boldly going out there and doing stuff....*

From timestamp 05:47

Rep. Brian Fitzpatrick: Correct. This is THE most sensitive of investigations you could possibly embark upon which is why that guideline manual that I referred to requires the highest level of approval both on the FBI side and the DOJ side.

Toomey in the News

Courtesy of contributor Elayne Baker

"I think it would be extremely inappropriate to put a bullet in this thing immediately when it comes over. I think we ought to hear what the House impeachment managers have to say, give the President's attorneys an opportunity to make the defense, and then make a decision about whether and to what extent it would go forward from there..."

"I think there's a big disagreement about what rises to a level of impeachment. So, after the arguments are made, then I think that's the time to decide whether witnesses are necessary."

— from a [WESA article titled "Casey Says New Witnesses Should Be Called In Senate Impeachment Trial"](#) [*editor's note: despite the title of this article, rest assured the quote is actually from Sen. Toomey*]

"The USMCA's many flaws arise from its unprecedented intent. It is the only trade pact ever meant to diminish trade.

"Since NAFTA's implementation, American exports to Mexico have grown more than fivefold. But imports grew even more, widening the trade deficit. The Trump administration finds this unacceptable,

even though the trade deficit is mostly meaningless. Hence USMCA has a myriad of provisions to warm the hearts of protectionists.”

— from a [Business Insider](#) article (quoting a paywalled Toomey Op-Ed in the *Wall Street Journal*) titled [“A GOP senator slammed Trump’s NAFTA rewrite, saying it ‘the only trade pact ever meant to diminish trade’”](#)

“Medicare’s prescription drug program limits insurers from providing seniors with plans that best fit their needs. My bill with Senator Crapo aims to address this by encouraging insurers to develop and offer a greater variety of prescription drug plans to seniors.”

— from an article in the *Pennsylvania Business Report* titled [“Sen. Toomey introduces legislation to reduce drug costs for seniors”](#)

“I will say, I’ve got to listen carefully to what the House has to say. I think that’s an obligation that I have. But I can also tell you candidly since some of this has been conducting in public. I would be deceiving you if I didn’t acknowledge that I have not seen a crime committed that rises to the level of impeachment. I’m not aware of a crime having been committed much less one that rises to the level of impeachment... at this point I don’t think the case has been made.”

— from an interview/article on *WPHT Newsradio 1210* titled [“Senator Toomey: I Haven’t Seen A Crime That Rises To Level of Impeachment”](#)

“I think the president is mistaken on this... USMCA is an exercise, through all types of new provisions, to diminish trade — and that’s why I hope Republicans will reconsider this.”

— from an *NBC News* article titled [“GOP’s Toomey says USMCA agreement diminishes free trade”](#)

“We’ve had trade deficits with the rest of the world for over 40 consecutive years. And what country has the biggest economy, the highest standard of living, the strongest growth, and best prospects going forward? We do. And that’s because trade deficits don’t matter. That money gets reinvested back in the United States. So, unfortunately USMCA is an exercise through all kinds of new provisions to diminish trade, and that’s why I hope Republicans will reconsider this. We’ve historically recognized that we’re all better off with more open markets.”

— from an article in *Mediaite* titled [“GOP Senator Criticizes Trade Agreement as ‘Complete Capitulation to Pelosi’”](#)

Call to Action - Keep up the impeachment calls

Thank you to everyone who turned out to the Indivisible - MoveOn - Impeach.org Rapid

Response events this past week. There were more than 600 events around the country, with turnout at those events bringing out between 100,000 and 200,000 people who are committed to defending our constitution and the rule of law.

What’s next? THREE phone calls.

Call #1 - Let Representative Fitzpatrick know what you thought about his vote on the Articles of Impeachment. He has tried to sit a fence saying he thinks the president showed “poor judgment” but this was not an impeachable offense. Tell him how that makes you feel.

Call #2 - Let Senator Toomey know you expect him to be an impartial witness and put his oath of office above his loyalty to his political party. Senator Toomey has expressed some sentiments that put him in the camp of wanting to provide some checks on the power of the President. Earlier this year he voted against President Trump’s fake emergency (letting Trump raid funds already appropriated by Congress to other purposes) and then again when the Senate tried to overturn that veto. Senator Toomey has also been pushing legislation that would stop a president from being able to claim security concerns to implement trade tariffs... and it is not just a messaging bill. He is promoting it, incessantly.

When you call Senator Toomey be sure to express your concern that President Trump's decision to ignore Congressional subpoenas and directing witnesses to not show for hearings is a dangerous power for a president, and if he truly believes in limits to presidential powers, voting to impeach the president for Obstruction of Congress is a reasonable next step.

Call #3 - Tell Senator Casey you have his back. Bob Casey is probably getting tons of calls from Trump supporters. Make sure that's not all his staff hears. Let him know that you support impeachment

EXTRA CREDIT - Get creative! Here's what we folks in PA-01 did to let GOP Rep. Brian Fitzpatrick know how disappointed we were in his vote against impeachment. We made a very large oath of office to remind him of his obligations to his constituents and the Constitution.



This is our last normal MoCTrack for a few weeks. We are taking next weekend off, and shortly after the new year we will get you all a recap of the legislative action of 2019. We'll be back with our next normal, weekly report on 01/12/2020! **Enjoy the holiday season and have a safe and happy new year!**

This report brought to you by the Pennsylvania MoCTrack team...

Elayne Baker
Gary Garb
Helen a.k.a. @ElastigirlVotes
Linda Houk
Kierstyn Piotrowski Zolfo