

Role Reversal: House Emerges from Mid-Term Election as Family Planning Protector

The election of a Democratic majority in the House of Representatives—in the face of losses by supportive Democratic Senate incumbents—in all likelihood will save the international family planning and reproductive health (FP/RH) program from legislative attacks by congressional opponents and a hostile Trump-Pence administration bent on cutting FP/RH funding and imposing crippling policy restrictions, at least for the next two years. This would represent a reversal in roles played by the two chambers since the 2010 election, in which Senate champions served as the bulwark each year, protecting the U.S. Agency for International Development’s (USAID) FP/RH programs from funding cuts and initiatives to codify the Global Gag Rule (GGR), as well as earmarking a U.S. contribution to the UN Population Fund (UNFPA). Depending on the outcome of three Senate races that remain outstanding, the Senate may be able to continue to serve as protector of the FP/RH program, as well.

Closely correlated with the large number of House seats that “flipped” from the Republican to the Democratic column on Tuesday, a preliminary analysis of the November 6th congressional election results indicates a significant increase in the level of political support for international FP/RH programs in the House. **FP/RH advocates have probably gained at least 28 votes—enough to surpass the threshold of votes needed to pass positive—or defeat negative—policy-related amendments (e.g. GGR or UNFPA contribution) by a simple majority, if they were to be offered on the House floor.**

Regardless of the final headcount of members’ positions on the substance of FP/RH issues, the Democrats gaining majority control of the House will have game-changing effects. This enables Democrats to set the legislative agenda for the chamber and to lead the key authorizing and appropriations committees and subcommittees with jurisdiction over international FP/RH programs, allowing meaningful oversight to be conducted on harmful Trump-Pence administration actions for the first time since the inauguration.

The projected headcount for the House in the 116th Congress is as follows: 218 pro, three lean pro, three mixed, three lean con, and 197 con. This tally does not include 12 races from around the country in which a winner has yet to be declared. All of the contested races feature a pro-choice Democrat versus an anti-choice Republican with the vote count leaders in each race roughly evenly split between the two categories. Five of the eleven unresolved races are in California.

In the Senate, FP/RH advocates are down at least one vote and remain short of a majority on both policy-related amendments (Global Gag Rule and UNFPA contribution) and in support of current

funding levels. The Nevada seat went from the con category to solidly supportive, while the Missouri and North Dakota seats switched to firmly opposed. The Indiana, Tennessee, and Utah seats were a wash, with FP/RH opponents replacing similarly opposed retiring incumbents.

In the 116th Congress, 46 Senators can be expected to vote in favor of FP/RH, with 48 opposed. Three other Senators are classified in swing categories—one as lean pro and two as lean con.

Three Senate races—Arizona, Florida, and Mississippi—await final results. All three present a stark choice between a pro-FP/RH Democrat and a Republican FP/RH opponent. Arizona and Florida are too close to call, and Mississippi will hold a run-off election on November 27th. The best-case scenario for FP/RH advocates would be a final Senate headcount falling just short at 49 in favor and 51 against. The final breakdown between Republicans and Democrats is extremely important to setting the Senate position on FP/RH issues, as it will affect the numerical ratio between the two parties in the composition of the Appropriations Committee membership. If narrow enough, Senate champions may still be able to eke out a win on pro-FP/RH amendments in full committee markup.

One observation worth highlighting is the starkness of the partisan divide on reproductive rights issues, and by extension on international FP/RH policies and funding, which has continued to widen since the late 1990s and at this point is largely complete. In the projected headcounts on FP/RH issues for the 116th Congress, no House Republican is categorized as a solid supporter, and only two Democrats are classified as solid opponents. Similarly, in the incoming Senate, only two Republicans can be considered completely reliable FP/RH supporters, while only two Democrats are categorized as swing votes and none are solidly opposed. The level of bipartisan support that international FP/RH issues once enjoyed is now a thing of the past.

Nevertheless, one can envision that next year's appropriations process might play out exactly the same way it has for the last nine fiscal years—with a twist, in which the House committee will produce the pro-FP/RH version of the spending bill and their Senate counterpart approves a diametrically opposite bill that cuts FP/RH funding and seeks to impose hostile policy restrictions. **However, there is nothing inherent in the role reversal of the two chambers that is likely to take place in the 116th Congress to suggest the final resolution on FP/RH issues will be any different—more or less level funding for the bilateral USAID FP/RH program, an earmarked contribution for the UN Population Fund (UNFPA) under current law restrictions, and no new abortion-related policy provisions, either positive or negative.**

The upcoming negotiations to finalize a FY 2019 spending package during the coming lame duck session, necessary to avoid a federal government shutdown on December 7th when the current continuing resolution expires, may provide some insight into the political dynamics that will be operating during the 116th Congress when it convenes in January.