

The Fix Is In—Shaheen Amendment Counters Anti-Family Planning House Bill

September 7th was an action-packed day on Capitol Hill for international family planning and reproductive health (FP/RH) funding and policy. Most significantly, during the Senate Appropriations Committee markup of its FY 2018 State, Foreign Operations, and Related Programs spending bill, Senator Jeanne Shaheen (D-NH) successfully offered an amendment that restores funding for bilateral FP/RH programs, earmarks a U.S. contribution to the United Nations Population Fund (UNFPA), and permanently repeals the [Global Gag Rule](#) (GGR). Meanwhile, the full House adopted on the floor its version of the same appropriations bill ([H.R. 3362](#)) with anti-family planning provisions diametrically opposite to those contained in the Shaheen amendment as part of an eight-bill omnibus spending package for FY 2018.

The passage of the Shaheen amendment and the harmful House bill sets up the same dynamic for negotiation between the House and Senate that will occur later in the year. For the last seven fiscal years, this negotiation has preserved the legislative status quo—level international FP/RH funding and no new abortion-related policy “riders,” either positive or negative. So the fix should be in again this year.

Adopted during a morning full committee markup of the State-Foreign Operations bill, the Shaheen amendment corrects all of the attacks on family planning and reproductive health contained in the House-passed version. The amendment:

- earmarks “not less than” \$585 million for bilateral FP/RH programs;
- repeals the Global Gag Rule by amending the Foreign Assistance Act of 1961, the permanent authorizing statute for foreign aid programs, with the provisions of the Global HER Act ([S. 210](#)); and
- mandates a U.S. contribution to UNFPA of \$37.5 million under current law conditions with the exception of the dollar-for-dollar reduction in the contribution by the amount UNFPA spends in China each year.

The Shaheen amendment also ensures that FP/RH programs are treated the same as other global health sectors when U.S. foreign assistance is cut-off to governments in violation of country aid restrictions. Additionally, it allows contraceptive commodities to be purchased and distributed under the more efficient and cost-effective procurement mechanism of the HIV Working Capital Fund.

The Shaheen amendment was adopted by the bipartisan margin of 16 to 15 with all Democrats, except Sen. Joe Manchin (D-WV), and two Republicans, Sens. Susan Collins (R-ME) and Lisa Murkowski (R-AK), voting in support. The remaining 14 Republicans voted in opposition to the Shaheen amendment. Sen. Shaheen [spoke](#) forcefully and succinctly in support of her amendment, while only Subcommittee Chairman Lindsey Graham (R-SC) voiced perfunctory opposition, noting that this sets up the same debate between House and Senate appropriators that occurs every year.

The Shaheen amendment was cosponsored by five other Democrats, Sens. Patty Murray (D-WA), Dianne Feinstein (D-CA), Dick Durbin (D-IL), Chris Van Hollen (D-MD) and Tammy Baldwin (D-WI). Ranking Member [Patrick Leahy \(D-VT\)](#) and his staff were instrumental in ensuring the successful outcome of the amendment.

Across the Capitol, later in the afternoon, the House debated and passed the State-Foreign Operations division of an omnibus spending package without changing any of the harmful FP/RH funding cuts and policy “riders” contained in the [bill adopted](#) by the House Appropriations Committee on July 19th, including:

- cap on bilateral FP/RH funding at “not more than” \$461 million, which when combined with no funding allocation for UNFPA would result in a cut of \$146.5 million from the current total appropriated level of \$607.5 million;
- blanket ban on any funding of UNFPA, either as a voluntary contribution from the International Organizations and Programs (IO&P) account or funds to support UNFPA’s indispensable work in humanitarian settings; and
- legislative imposition of Trump’s Global Gag Rule and its dramatic expansion to all global health assistance.

Here are the funding levels for bilateral and multilateral FP/RH programs proposed in the Senate committee-passed and House-adopted versions of the FY 2018 State-foreign operations bill compared with the current appropriated level:

(IN MILLIONS OF DOLLARS)	FY 2017 ENACTED	FY 2018 PRESIDENT'S BUDGET REQUEST	FY 2018 HOUSE-APPROVED BILL (H.R. 3362)	FY 2018 SENATE COMMITTEE-APPROVED BILL
Global Health Programs account	(523.95)	0	—	(544.0)
Economic Support Fund	—	0	—	(41.0)
TOTAL, bilateral FP/RH	575.0	0	461.0	585.0
U.S. contribution to UNFPA (IO&P)	32.5	0	0	37.5
TOTAL, bilateral & multilateral FP/RH	607.5	0	461.0	(622.5)

NOTE: FP/RH funding levels that were earmarked in the statute are indicated in **bold**, while funding levels that were specified in report language are denoted in (parentheses).

The omnibus bill was debated by the House under a “structured rule” that limited the number and types of amendments that could be offered on the floor. Two family planning champions—Appropriations Committee Ranking Member Nita Lowey (D-NY) and Rep. Barbara Lee (D-CA)—filed five amendments to address the hostile provisions of the bill to enshrine the GGR into law and prohibit UNFPA funding, but none of the amendments were ruled in order and allowed consideration during the debate. Both

members made fiery remarks criticizing the attacks on family planning included in the bill and their inability to challenge them during floor consideration. Ranking Member Lowey [protested](#):

“We must reverse dangerous and short-sighted cuts for programs such as multilateral cooperation, international family planning, and climate change, as well as the expansion of the Global Gag Rule to ALL global health programs and the prohibition on U.S. contributions to UNFPA. The Rules Committee should have made in order amendments I submitted to strike the expansion of the Global Gag Rule and the ban on funding for the United Nations Population Fund, and to restore essential funding for international development and diplomacy.”

With regard to the legislative implications of the proposed House and Senate bills for UNFPA, both bills contain the longstanding Kemp-Kasten provision prohibiting U.S. funding for any organization that “supports or participates in the management of a program of coercive abortion or involuntary sterilization.” The Trump-Pence administration ended all FY 2017 funding for UNFPA when it issued its slipshod [March 30th determination](#), finding UNFPA in violation of the Kemp-Kasten restriction. If House-Senate negotiators reach the same deal as they did for FY 2017, a FY 2018 contribution will be earmarked for UNFPA, despite the likelihood that the funding will continue to be withheld by the administration. Fortunately, there has been a provision in appropriations bills since the early 2000s that requires that any funds withheld from UNFPA due to the operation of any provision of law be reprogrammed to USAID for bilateral “family planning, maternal, and reproductive health activities” and thereby allowing the funds to be used for FP/RH purposes.

Yesterday, Congress was also working to finalize a bill to expeditiously provide emergency supplemental funding for Hurricane Harvey relief and both fund the federal government through a “continuing resolution” and extend the debt limit through December 8th. The urgency of providing disaster relief to effected states, the threat of a government shutdown at the end of the fiscal year on September 30th, and the prospect of breaching the debt limit before the end of the month animated a surprising acceptance by President Trump of the deal proposed by the Democratic congressional leadership.

Assuming that the deal on a “continuing resolution” to keep the government running at current spending levels and policy is successfully concluded in the next few days, congressional leaders and appropriators of both parties will have time between now and the December deadline to conclude a bipartisan agreement to fund the federal government for the remainder of the fiscal year. It will be during these negotiations that the wide disparities on FP/RH funding and policy between House and Senate will need to be resolved. If the manner in which these same differences have been negotiated for the past seven fiscal years is any guide, it can be anticipated that the status quo will eventually be preserved—no funding cuts and no new policy “riders” on the GGR or UNFPA. In the current political environment, such an outcome would be among the best case scenarios for the continuation of United States leadership on international family planning and reproductive health.