

During full committee markups of the fiscal year (FY) 2019 State Department and Foreign Operations appropriations bills in the House and Senate yesterday and today, the two committees approved versions of the bill that are widely divergent in their treatment of international family planning and reproductive health (FP/RH) funding and policy. The House version caps bilateral funding at a low level, legislatively imposes the expanded [Trump Global Gag Rule](#) (GGR) and prohibits a U.S. contribution to the United Nations Population Fund (UNFPA). Conversely, the Senate version modestly increases funding above current levels, legislatively reverses the GGR and designates funding for UNFPA under most long-standing restrictions on the use of the U.S. contribution. This sets up the same negotiating parameters for the conference committee that will resolve the differences between the House and Senate versions, which has resulted in the [same status quo](#) outcome—flat FP/RH funding and no policy “riders” on GGR or UNFPA, either positive or negative—for the last eight fiscal years.

On Wednesday, the House Appropriations Committee marked up the subcommittee-produced [draft bill](#) providing funding for diplomatic operations and foreign assistance for development, health and humanitarian relief programs. The final bill approved by the full committee yesterday contains the following anti-FP/RH provisions:

- **Funding:** Imposes a ceiling of “not more than” \$461 million for FP/RH programs and a cut of \$146.5 million below the current FY 2018 enacted level that seeks to return FP/RH funding to the same amount appropriated a decade ago—despite the persistently high levels of unmet need for contraception expressed by 214 million women in developing countries;
- **Global Gag Rule:** Prohibits appropriated funds “for global health assistance... to any foreign nongovernmental organization that promotes or performs abortion, except in cases of rape or incest or when the life of the mother would be endangered if the fetus were carried to term,” which would enshrine in legislation what is now otherwise only an executive branch policy; and
- **UNFPA:** Prohibits any appropriated funds from being provided to the UN agency.

During the House markup, Democratic reproductive health and rights champions offered a total of four amendments—three which attempt to correct the egregious provisions in

the subcommittee draft bill outlined above and one to address the censorship of information about the status and abuse of reproductive rights in the most recent State Department Human Rights Report by the Trump-Pence administration. All four amendments were defeated on straight party-line votes.

Ranking Member Nita Lowey (D-NY) first offered a GGR-focused amendment to strike two anti-FP/RH restrictions (UNFPA funding prohibition and expanded GGR legislative mandate) contained in the same section of the draft bill and to replace with the operative language of the Global HER Act ([H.R. 671](#)). This proposed bill requires that a foreign NGO not be treated differently in their eligibility for U.S. global health assistance than their U.S. counterparts on the basis of the legal health or medical services, counselling and referrals that it might provide using non-U.S. government funds or if it engages in advocacy or lobbying in a manner consistent with requirements imposed on U.S. NGO funding recipients. Representatives Barbara Lee (D-CA) and Rosa DeLauro (D-CT) spoke in favor of the Lowey amendment. Subcommittee Chairman Hal Rogers (R-KY) voiced his opposition, citing the restrictions that Rep. Lowey sought to strike as an “essential part of pro-life limitations” in the Republican majority’s draft bill. The amendment failed on a vote of 22 to 30 with all Democrats supporting and all Republicans opposing.

Additionally, Rep. Katherine Clark (D-MA) proposed an amendment to correct the [censorship](#) by the Trump-Pence administration of information on the status of reproductive rights in this year’s edition of the annual State Department Report on Country Human Rights Practices. The amendment sought to amend the Foreign Assistance Act—the permanent statute governing foreign aid—by adding a new subsection requiring that the annual State Department Human Rights Report include information on “the status of reproductive rights (as defined in the 1994 International Conference on Population and Development Programme of Action and reiterated in the 1995 Beijing Declaration and Platform for Action)” for all countries covered by the report. Rep. Clark defended her amendment eloquently and was joined by endorsements from Reps. Lowey, Lee and Betty McCollum (D-MN). Rep. Rogers cited jurisdictional grounds in objecting to the amendment, noting that appropriators should not change authorizing law, to which Rep. Lowey feigned shock that appropriators would ever do such a thing. The vote tally was 22 to 29 with all Republicans opposing—except for Rep. Steve Womack (R-AR), who did not vote on the Clark amendment, nor for the remainder of the markup.

Family planning stalwart Rep. Barbara Lee then introduced a UNFPA-focused amendment that—like the Lowey GGR amendment—would strike both anti-FP/RH restrictions in the base bill and replace them with earmarked for a UNFPA contribution of 32.5 million, the FY 2018 enacted level, under all of the long-standing, current law restrictions on UNFPA’s use of funds. Rep. Lee emphasized UNFPA’s indispensable work in providing vital reproductive and maternal health services in humanitarian crises in Syria, Yemen and Iraq. Rep. DeLauro highlighted UNFPA’s critical role in addressing obstetric fistula. Subcommittee Chairman Rogers noted the Trump-Pence administration had [cut-off UNFPA funding](#) under the Kemp-Kasten amendment and that the State Department “will not and cannot contribute” to UNFPA so it was pointless to allocate funds for UNFPA. Ranking Member Lowey countered that previous

Republican subcommittee chairs Reps. Sonny Callahan (R-AL) and Jim Kolbe (R-AZ) had included a line-item budget for UNFPA even in years when Kemp-Kasten had been invoked. The amendment was again rejected on a party-line vote of 22 to 29.

Concluding the quartet of pro-FR/RH amendments, Rep. Tim Ryan (D-OH) offered an amendment to strike the bilateral FP/RH funding ceiling of \$461 million in the subcommittee draft bill and to replace with a floor of \$575 million—the enacted level for the current fiscal year. In advocating for his amendment, Rep. Ryan cited both the 214 million women in developing countries who do not want to become pregnant but are not currently using a contraceptive method and the U.S. fair share of the global cost of meeting the unmet demand for contraception of \$1.5 billion annually. Reps. Lowey and Lee urged support. Ignoring the fact that the amendment merely sought to restore FP/RH spending levels, Subcommittee Chair Rogers claimed that it is a “zero-sum game” and that any increase for FP/RH would come at the expense of other critical health programs. The same vote margin of 22 to 29 was again recorded, and the amendment was rejected.

Today, during a full committee markup of the State-Foreign Operations bill, the Senate Appropriations Committee adopted an amendment successfully offered for the last five years by Senator Jeanne Shaheen (D-NH), which corrects all of the attacks on family planning and reproductive health contained in the House committee-passed version. The amendment:

- Earmarks “not less than” \$595 million for bilateral FP/RH programs, an increase of \$20 million above the current FY 2018 enacted levels and specifies in report language that within the total amount, \$544 million is to be derived from the Global Health Programs account and \$51 million from the Economic Support Fund;
- Strikes the GGR legislative imposition in the subcommittee draft bill and replaces with the provisions of the Global HER Act ([S. 210](#)); and
- Mandates a U.S. contribution to UNFPA of \$37.5 million, a \$5 million increase above the FY 2018 enacted level and reiterates current law conditions with the exception of the dollar-for-dollar reduction in the contribution by the amount UNFPA spends in China each year.

Total bilateral and multilateral FP/RH funding would be \$632.5 million, an increase of \$25 million above the comparable current level if the Shaheen amendment were enacted into law and \$330 million more than Trump-Pence administration’s FY 2019 budget request. 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 that are 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.

With Senator Shaheen recovering at home in New Hampshire this week after what is being described as a routine medical procedure, Senator Dick Durbin (D-IL) offered Sen. Shaheen’s amendment in her absence. In addition to Sens. Durbin and Shaheen, the amendment was cosponsored by seven other Democrats: Sens. Patty Murray (D-

WA), Patrick Leahy (D-VT), Dianne Feinstein (D-CA), Tammy Baldwin (D-WI), Chris Van Hollen (D-MD), Jeff Merkley (D-OR) and Chris Murphy (D-CT). The 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. Durbin and Ranking Member Leahy spoke succinctly in support of the Shaheen 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. In an important development, Republican Senator Murkowski, who, while a reliable vote on the Shaheen amendment and its predecessors, spoke for the first time in committee in support and struck a bipartisan note: “This is a little bit of déjà vu all over again. I think we do this every year—and we do have the discussion about abortion—but I think it is repeated every year that this amendment makes zero changes to long-standing statutes and restrictions on U.S. funding for abortion. What this amendment really is about, is about supporting women and girls around the world, which we all ought to be able to come together on.”

The chart below compares bilateral and multilateral FP/RH funding levels contained in the current FY 2018 omnibus spending, the FY 2019 President’s budget request, and now, the House and Senate committee-approved FY 2019 State-Foreign Operations appropriations bills.

(in millions of dollars)	FY 2018 Enacted (P.L. 115-141)	FY 2019 President’s Budget Request	FY 2019 House Committee-Approved Bill	FY 2019 Senate Committee-Approved Bill
Global Health Programs account	(523.95)	302.0	—	(544.0)
Economic Support Fund (ESF)	(51.05)	—	—	(51.05)
<b>TOTAL, bilateral FP/RH</b>	<b>575.0</b>	302.0	<b>461.0</b>	<b>595.05</b>
U.S. contribution to UNFPA (IO&P)	<b>32.5</b>	0	0	<b>37.5</b>
<b>TOTAL, bilateral &amp; multilateral FP/RH</b>	607.5	302.0	<b>461.0</b>	(632.55)

*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 bicameral and bipartisan leadership of the Appropriations Committees are vowing to strive for a return to “regular order”—committee approval of all 12 appropriations bills, debate and passage of bills on the House and Senate floors and adoption of House-Senate conference reports. One “minibus,” legislation packaging several appropriations bills into one vehicle, has already passed on the House floor. Senate Majority Leader Mitch McConnell (R-KY) has already announced the cancellation of the customary August recess in order to complete work on appropriations bills and to confirm

additional federal judges and other executive branch nominations. His motivation—hoping to demonstrate to voters that Republicans are capable of making a Congress they control work, with the added side benefit of keeping vulnerable Democratic Senators facing difficult re-elections off the campaign trail back home.

Prospects that the Republican leadership will take the State-Foreign Operations bill to the House floor seem likely, whether as a freestanding bill or as part of a “minibus.” While the House committee-approved bill is already so bad, debating the State-Foreign Operations bill on the Senate floor would pose significant risks by potentially exposing some or all of the provisions of the Shaheen amendment to hostile attacks by family planning opponents. Nevertheless, advocates remain guardedly optimistic that the song will remain the same in the negotiation to produce a final spending deal, and the status quo on FP/RH funding and policy will be preserved for the ninth year in a row.