

July 30, 2021

It's Good to Be the Majority – Pro-Reproductive Health Foreign Aid Bill Emerges from the House Floor Unscathed

On the evening of July 28th, the House of Representatives adopted a State Department, Foreign Operations and Related Programs Appropriations bill for fiscal year (FY) 2022 that includes a multitude of funding and policy provisions that would be tremendous advancements for global sexual and reproductive health rights (SRHR) if enacted into law. Having a Democratic majority, albeit slim, and new, forceful leadership on the Appropriations Committee were crucial in passing such a progressive, pro-SRHR bill. House passage is only the first milestone in this year's appropriations process. Now it is our Senate champions' turn to take the next step to get these legislative advancements across the finish line and enacted into law. However, delays in the Senate appropriations process means that a final FY 2022 spending bill is not likely until several months from now.

Among the key provisions in the House-passed bill ([H.R. 4373](#)) to highlight are long-overdue increases in bilateral and multilateral family planning and reproductive health (FP/RH) funding, which has been stagnant for over a decade, and a permanent legislative repeal of the Global Gag Rule. Additionally, in alignment with the other FY 2022 appropriations bills, which have eliminated the Hyde amendment and other restrictions on federal funding for abortion, the bill deletes references to the Helms amendment. This is a crucial step towards eliminating the Helms amendment, which has restricted the use of U.S. foreign assistance funds for abortion since 1973.

New State-Foreign Operations Subcommittee Chair Barbara Lee (D-CA) successfully brought a foreign aid bill to the House floor and passed it as a freestanding bill for the first time in more than a decade while avoiding the adoption of harmful Republican amendments. The vote on final passage was 217 to 212, with all Republicans and only three Democrats [voting](#) in opposition. The total funding allocated for international affairs programs of \$62.2 billion represents a 12% increase above the FY 2021 enacted level, an increase warranted by the unprecedented challenges posed to the international community by a pandemic ravaging the globe and accelerating climate change, among others.

Republican sponsors proposed nine anti-SRHR amendments to the House Rules Committee on which Democrats have an insurmountable majority of the members. Among the subjects of the hostile Republican amendments were eliminating bilateral FP/RH and United Nations Population Fund (UNFPA) funding earmarks; prohibiting funding for UNFPA; reversing a modification made to the Kemp-Kasten amendment in the committee bill; striking the permanent repeal of the GGR and reinstating the Trump-era version of the policy; reinserting the Helms amendment and restrictions on abortion coverage for Peace Corps volunteers and adding new language to ban the use of funds to provide sex-selective abortion.

Of the nine amendments, only two were made in order by the Rules Committee, those related to striking the bilateral FP/RH and UNFPA funding earmarks, sponsored by Reps. Carol Miller (R-WV) and Chip Roy (R-TX), respectively. The Rules Committee was consistent in its application of one of the standing rules of the House with regard to parliamentary procedure that prohibits "legislating on an appropriations bill," thereby rejecting all of the proposed policy-related amendments on the Global Gag Rule, the Helms amendment, and five others.

Debate of the subcommittee bill on the House floor was governed by a “structured rule,” specifying which amendments could be offered and for how long each could be debated. In the end, both the Miller and Roy funding amendments were included as part of an en bloc amendment that packaged multiple Republican amendments that had been made in order under the procedural rule. The Republican en bloc amendment was defeated on vote of 202 to 217 with all Democrats plus two Republicans — Reps. Brian Fitzpatrick (R-PA) and John Katko (R-NY) — opposed.

During the [House floor debate](#) on both the rule and the bill itself, discussion of the pro-SRHR provisions included in the subcommittee bill figure prominently, especially the permanent GGR repeal, Helms amendment removal and the U.S. contribution to UNFPA. Both parties brought out their heavy hitters to defend their positions. Offering a spirited defense of the subcommittee bill’s pro-SRHR provisions were Subcommittee Chair Lee and full Appropriation Committee Chair Rosa DeLauro (D-CT), along with Reps. Debbie Wasserman-Shultz (D-FL) and Lois Frankel (D-FL). On the Republican side, Subcommittee Ranking Member Hal Rogers (R-KY) and full Committee Ranking Member Kay Granger (R-TX) bemoaned the removal of the Helms amendment from the bill and declared that it jeopardized getting to a final agreement on an FY 2022 bill. Joining them arguing against the Helms amendment were House Minority Whip Steve Scalise (R-LA) and Jackie Walorski (R-IN). Rep. Chris Smith (R-NJ), the House’s long-time leading anti-choice crusader, trotted out his tired talking points on the evils of abortion and his oft-repeated, yet unsubstantiated, claims about UNFPA that do not merit repeating.

Chair Lee and Rep. Frankel had strong words for their Republican colleagues who had tried to argue during the floor debate of the rule that the elimination of the bilateral and UNFPA funding earmarks was a necessary response to the Democrats decision to not include the Helms amendment and permanently repeal the GGR. As Rep. Frankel observed during general debate:

“This en bloc also seeks to cut family planning. Are you kidding? Really? You are trying to stop abortions, and then my friends on the other side of the aisle think you are going to stop it by stopping access to contraception and blocking the work of healthcare providers who deliver reproductive care? To me that is just crazy, Madam Speaker. Crazy, crazy, crazy...I have said this before, and I say this again, for women and their families to be safe, for communities to be prosperous, for the world to be peaceful, women must succeed. And that means they have to be healthy, free from sexual violence, and free to make their own personal decisions about whether and when to become a parent.”

The White House issued a “[statement of administration policy](#)” on the bill and lent support to the significant increases to bilateral FP/RH program funding and to the voluntary contribution to UNFPA.

With final passage of the subcommittee bill and rejection of the Republican en bloc amendment to remove bilateral and multilateral FP/RH funding earmarks, the key global SRHR provisions in the House-passed bill for their Senate counterparts to consider matching [remain unchanged](#) including:

- Permanently repealing the Global Gag Rule legislatively;
- Increasing funding for bilateral FP/RH funding to \$760 million (\$185 million over the FY 2021 enacted levels);
- Directing a U.S. contribution for UNFPA of \$70 million (\$37.5 million over the earmarked FY 2021 contribution);
- Modifying the Kemp-Kasten amendment by requiring that an organization be determined to be “directly” engaged in coercive practices before being denied U.S. funding;
- Removing the Helms amendment restrictions that have prohibited safe abortion and health care services for people in low-income countries;
- Removing the Hyde amendment restrictions on abortion access for Peace Corps volunteers; and

- Making additional technical changes:

1. Contraceptive information: Expands the requirement that information about condoms in all programs and activities funded under the bill must be “medically accurate and shall include the public health benefits and failure rates of such use” to include all modern contraceptives.
2. HIV Working Capital Fund: Includes changes to allow global health funds, including FP/RH, to utilize this mechanism to purchase contraceptive commodities.
3. Country aid prohibition exemption: Revises current policy to allow all global health funds, including FP/RH, to continue going to countries whose governments may be subject to other prohibitions on assistance.

(in millions of dollars)	FY 2020 Enacted (P.L. 116-94)	FY 2021 Enacted (P.L. 116-260)	FY 2022 President's Budget Request	FY 2022 House-passed bill (H.R. 4373)	Difference House vs. FY 2021 Enacted	Difference House vs. FY 2022 Request
Global Health Programs account	(523.95)	(523.95)	550.0	(760.0)	236.1	210.0
Economic Support Fund (ESF)	(51.05)	(51.05)	TBA	--	- 51.1	TBA
TOTAL, bilateral FP/RH	575.0	575.0	583.7	760.0	185.0 (+ 32%)	176.3 (+ 30%)
U.S. contribution to UNFPA (IO&P)	32.5	32.5	56.0	70.0	37.5 (+ 115%)	14.0 (+ 25%)
TOTAL, bilateral & multilateral FP/RH	607.5	607.5	639.7	830.0	222.5 (+ 37%)	190.3 (+ 30%)



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 Senate Appropriations Committee is not expected to markup its version of the State Department and Foreign Operations bill until September once it returns after Labor Day. Given the worsening partisan divide in Congress and the Senate’s slow start, a continuing resolution to fund the federal government after the start of the new fiscal year on October 1st is considered inevitable. Speculation is widespread that a continuing resolution may be needed for several months while Congress sorts out budget and spending bills for FY 2022.

It’s now up to the bipartisan pro-FP/RH majority on the Senate Appropriations Committee to adopt its own robust set of companion provisions on FP/RH funding and policy. Inclusion of the permanent GGR repeal and increases in a Senate version of the bill would finally set the stage to break through the stalemate that has persisted for the last 11 fiscal years and to send a bill to President Biden for his signature that dramatically moves U.S. government leadership on SRHR forward.