

May 2017 | Fact Sheet

## UNFPA Funding & Kemp-Kasten: An Explainer

### Key Points

- On March 30, the Trump Administration invoked the “Kemp-Kasten amendment” in order to withhold FY 2017 funding for the United Nations Population Fund (UNFPA, the lead U.N. agency focused on global population and reproductive health). FY 2017 funding for UNFPA was expected to total \$32.5 million in core support and potentially millions more for other project activities. This explainer provides an overview of the history of Kemp-Kasten and its current application.
- Kemp-Kasten, first enacted by Congress in 1985 and included in appropriations language annually, states that no U.S. funds may be made available to “any organization or program which, as determined by the president of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization.”
- Kemp-Kasten has been used to withhold funding from UNFPA in 16 of the past 33 fiscal years, as determined by presidents along party lines.
- While framed broadly, Kemp-Kasten was originally intended to restrict funding to UNFPA specifically, after concerns arose about China’s population control policies and UNFPA’s work in China; to date, it has only been applied to UNFPA. Evaluations by the U.S. government and others have found no evidence that UNFPA directly engages in coercive abortion or involuntary sterilization in China, and more generally, UNFPA does not promote abortion as a method of family planning or fund abortion services.
- Under current U.S. law, any U.S. funding withheld from UNFPA is to be made available to other family planning, maternal health, and reproductive health activities.

### What is the Kemp–Kasten Amendment?

The Kemp-Kasten amendment, first enacted in 1985, is a provision of U.S. law that states that no U.S. funds may be made available to “any organization or program which, as determined by the [p]resident of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization.”<sup>1</sup> It was the congressional response to a Reagan Administration decision in 1984 to temporarily withhold some funding from UNFPA and to begin conditioning its funding on assurances that the agency did not engage in or provide funding for abortion or coercive family planning. This policy change was made after concerns arose about whether UNFPA supported China’s coercive population policies.<sup>2</sup> It was announced by the Reagan Administration at the 2<sup>nd</sup> International Conference on Population in 1984, in conjunction with the “Mexico City Policy.”<sup>3</sup> The Mexico City Policy required foreign NGOs to certify that they would not “perform or actively promote abortion as a method of family planning” with non-U.S. funds as a condition of receiving U.S. family planning assistance; the Trump Administration recently expanded this restriction to include all U.S. global health assistance (see the KFF [explainer](#) on the policy).

## Box 1: The Original Language Regarding UNFPA in the U.S. Policy Statement at the 2<sup>nd</sup> International Conference on Population, 1984

“With regard to the United Nations Fund for Population Activities [UNFPA], the US will insist that no part of its contribution be used for abortion. The US will also call for concrete assurances that the UNFPA is not engaged in, or does not provide funding for, abortion or coercive family planning programs; if such assurances are not forthcoming, the US will redirect the amount of its contribution to other, non-UNFPA, family planning programs.”<sup>4</sup>

## WHAT U.S. FUNDING DOES KEMP-KASTEN APPLY TO?

Kemp-Kasten applies to all funds appropriated under the State and Foreign Operations appropriations act as well as any unobligated balances from prior appropriations. This includes all funding provided to the State Department and USAID, which, in turn, includes the vast majority of U.S. global health funding.<sup>5</sup>

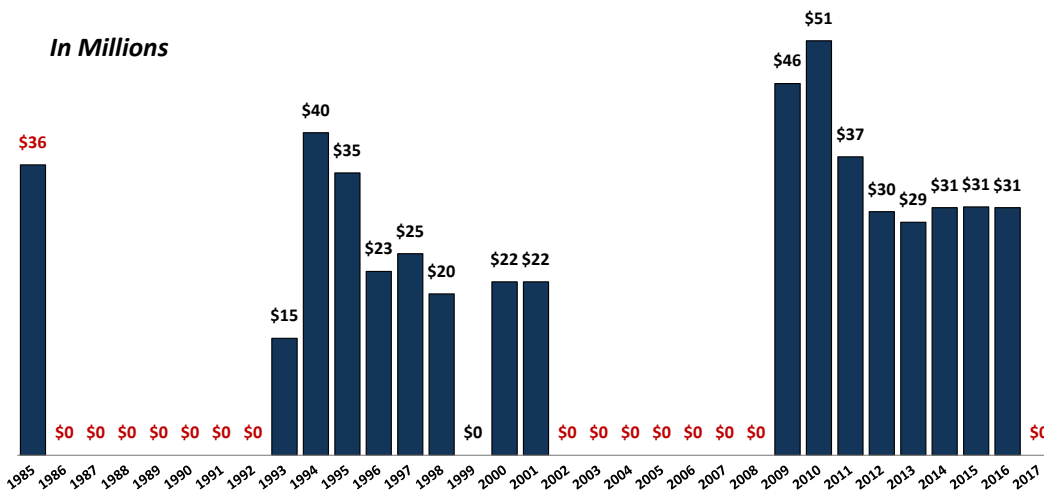
## WHEN HAS KEMP-KASTEN BEEN IN EFFECT?

The Kemp-Kasten amendment has been in effect for 33 years. First enacted in 1985,<sup>6</sup> its language has been included in the State and Foreign Operations appropriations act every fiscal year since then. (Although the provision is present in current law, language similar to Kemp-Kasten was also included in President Trump’s presidential memorandum reinstating the Mexico City Policy on January 23, 2017.<sup>7</sup>) While Congress has kept the amendment in place annually, it remains up to the president to determine whether or not to invoke Kemp-Kasten as a reason to withhold funding from an organization (see below).<sup>8</sup>

Though Kemp-Kasten technically could apply to funding provided to any organization or program (including U.S. NGOs, non-U.S. NGOs, multilateral organizations, and foreign governments), the U.S. government has issued determinations about only one organization, UNFPA, thus far. To date, the U.S. has withheld funding from UNFPA in 16 of the past 33 fiscal years due to presidential determinations that it violated Kemp-Kasten. These determinations have been made along party lines with only one exception – the first year of President George W. Bush’s administration (see Figure 1 and Table 1). In some years, funding was also withheld from UNFPA based on other provisions of the law.<sup>9</sup>

Figure 1

### U.S. Funding for UNFPA, FY 1985-FY 2017



NOTES: Red indicates the U.S. withheld some or all funding due to Kemp-Kasten. Reflects U.S. contributions to UNFPA core resources. Amounts are rounded. FY13 includes the effects of sequestration. Due to policy conditions put in place by Congress and the impact of presidential determinations under the Kemp-Kasten amendment, actual annual contributions are frequently lower than enacted levels (e.g., the U.S. did not provide any funding to UNFPA between 2002 and 2008 due to Kemp-Kasten). In years where UNFPA funding was not withheld due to Kemp-Kasten but funding was appropriated, some funding may have been withheld due to other provisions of U.S. law regarding UNFPA funding. SOURCE: Kaiser Family Foundation analysis of data from the Office of Management and Budget, Agency Congressional Budget Justifications, Congressional Appropriations Bills, and the U.S. Foreign Assistance Dashboard [website], available at: [www.foreignassistance.gov](http://www.foreignassistance.gov); CRS, *The U.N. Population Fund: Background and the U.S. Funding Debate*, RL32703, July 2010; State Department, *U.S. Participation in the United Nations: Report to Congress for 1993, 1994*; State Department, *U.S. Contributions to International Organizations: Report to Congress for FY 2016, 2016*.

**Table 1: The Kemp–Kasten Amendment and U.S. Funding for UNFPA, FY 1985–FY 2017**

Fiscal Year (FY)	Presidential Administration (Party Affiliation)	Determined UNFPA Not Eligible for U.S. Funds Under Kemp–Kasten?	U.S. Funding for UNFPA (U.S. \$ millions)		
			Request <sup>a</sup>	Enacted	Actual <sup>b</sup>
FY 1985	Reagan (R)	Yes, but partial	26	46	36
FY 1986	Reagan (R)	Yes	38	--	0
FY 1987	Reagan (R)	Yes	32	--	0
FY 1988	Reagan (R)	Yes	25	--	0
FY 1989	Bush (R)	Yes	20 <sup>a</sup>	--	0
FY 1990	Bush (R)	Yes	19	--	0
FY 1991	Bush (R)	Yes	10	--	0
FY 1992	Bush (R)	Yes	10	--	0
FY 1993	Clinton (D)	No	0 <sup>a</sup>	--	15
FY 1994	Clinton (D)	No	50	40	40
FY 1995	Clinton (D)	No	60	35 <sup>c</sup>	35
FY 1996	Clinton (D)	No	55	30	23
FY 1997	Clinton (D)	No	30	25	25
FY 1998	Clinton (D)	No	30	25	20
FY 1999	Clinton (D)	No	25	0	0
FY 2000	Clinton (D)	No	25	25	22
FY 2001	Bush (R)	No	25 <sup>a</sup>	25	22
FY 2002	Bush (R)	Yes	25	34	0
FY 2003	Bush (R)	Yes	25	34	0
FY 2004	Bush (R)	Yes	25	34	0
FY 2005	Bush (R)	Yes	25	34	0
FY 2006	Bush (R)	Yes	25	34	0
FY 2007	Bush (R)	Yes	25	34	0
FY 2008	Bush (R)	Yes	25	40	0
FY 2009	Obama (D)	No	25 <sup>a</sup>	50	46
FY 2010	Obama (D)	No	50	55	51
FY 2011	Obama (D)	No	50	40	37
FY 2012	Obama (D)	No	48	35	30
FY 2013	Obama (D)	No	39	33	29
FY 2014	Obama (D)	No	37	35	31
FY 2015	Obama (D)	No	35	35	31
FY 2016	Obama (D)	No	35	33	31
FY 2017 <sup>d</sup>	Trump (R)	Yes	Obama 35/Trump 0	33	0

NOTES: Reflects U.S. contributions to UNFPA core resources. Amounts are rounded.

-- indicates that Congress did not specify a funding level for UNFPA, leaving it up to the administration to decide on what level of funding, if any, would be provided, in addition to determining whether to withhold funding under Kemp-Kasten.

a) Requests are usually generated by the prior administration in fiscal years that are presidential transitions.

b) In years where UNFPA funding was appropriated and was not withheld due to Kemp-Kasten, some funding may have been withheld due to the dollar-for-dollar withholding provision of U.S. law regarding UNFPA funding.

c) Final enacted level, after original appropriation was modified by a rescission through subsequent legislation.

d) FY17 requested funding reflects the amount requested in the Obama Administration’s final budget as well as the budget “reduction options” proposed by the Trump Administration. FY17 enacted funding reflects the FY17 Omnibus. FY17 estimated funding reflects that enacted funding will be withheld due to Kemp-Kasten.

SOURCES: Kaiser Family Foundation (KFF) analysis; CRS, *The U.N. Population Fund: Background and the U.S. Funding Debate*, RL32703, July 2010; UNFPA Annual Reports 2011-2015; State Department, *U.S. Participation in the United Nations: Report to Congress for 1993, 1994*; State Department, *U.S. Contributions to International Organizations: Report to Congress for FY 2016, 2016*; KFF analysis of data from: Congressional Appropriations Bills, Press Releases, and Conference Reports; Federal Agency Budget and Congressional Justification documents and Operating Plans; ForeignAssistance.gov; Office of Management and Budget, personal communication.

## HOW MUCH FUNDING DOES THE U.S. PROVIDE TO UNFPA?

The U.S. played a key role in the launch of UNFPA in 1969 and was, until 1985, the largest donor to the agency.<sup>10</sup> More recently, in 2015, the U.S. was the third largest donor to UNFPA,<sup>11</sup> having contributed almost \$76 million (8% of all contributions),<sup>12</sup> and in FY 2016, the U.S. contributed \$69 million to UNFPA, including \$30.7 million in core support and an additional \$38.3 million in non-core support for other project activities.<sup>13</sup> Congress included \$32.5 million in core support for UNFPA in FY 2017, which will be withheld due to Kemp-Kasten, as will millions more for other specific project activities.<sup>14</sup> According to UNFPA, contributions to core resources allow the agency to support any activity, while contributions to non-core resources – funds earmarked for a specific purpose – may only be used for the stated project or activity.<sup>15</sup> Governments provide contributions toward UNFPA core and non-core resources on a voluntary basis, since UNFPA does not assess a required contribution from governments.<sup>16</sup>

## HOW IS A DETERMINATION ABOUT KEMP–KASTEN MADE?

By law, it is up to the president to determine whether any organization or program should be ineligible for funding due to a violation of the Kemp-Kasten amendment (in practice, this authority has generally been delegated to the State Department). In most recent years, legislative language has also specified that this determination must be: 1) made no later than six months after the date of enactment of the law that includes the provision and 2) accompanied by the evidence and criteria used to make the determination.<sup>17</sup>

The Trump Administration's March 30, 2017, Kemp-Kasten determination for FY 2017 was made at the six month mark after the passage of the FY 2017 continuing resolution appropriations bill and was accompanied by a two-page justification memorandum.<sup>18</sup>

## HAS THERE EVER BEEN EVIDENCE THAT UNFPA SUPPORTS COERCIVE ABORTION OR INVOLUNTARY STERILIZATIONS?

To date, there has not been evidence that UNFPA supports coercive abortion or involuntary sterilizations. Several evaluations by the U.S. government (including one by an assessment team sent to China by the State Department in 2002) as well as other groups, such as the British All-Party Parliamentary Group on Population, Development, and Reproductive Health (in 2002) and the Interfaith Delegation (in 2003), have found no evidence of direct engagement by UNFPA in such activities in China or elsewhere.<sup>19</sup> In addition, UNFPA does not promote abortion as a method of family planning or fund abortion services.<sup>20</sup> In years when a determination has been made that UNFPA violated Kemp-Kasten, the U.S. government has stated that the determination was based on its conclusion that UNFPA support to or partnering with the Chinese government for other population and reproductive health activities was sufficient grounds for invoking the amendment to withhold funding. In the March 30, 2017, determination by the Trump Administration, for example, the justification memorandum stated that: “While there is no evidence that UNFPA directly engages in coercive abortions or involuntary sterilizations in China, the agency continues to partner with the NHFPC [China’s National Health and Family Planning Commission] on family planning, and thus can be found to support, or participate in the management of China's coercive policies for purposes of the Kemp-Kasten amendment.”

## WHAT OTHER LEGISLATIVE REQUIREMENTS APPLY TO U.S. FUNDING FOR UNFPA?

In addition to Kemp-Kasten, there are several other provisions of law that Congress has enacted in recent years to set conditions on U.S. funding for the agency.<sup>21</sup> These provisions:

- require UNFPA to keep U.S. funding to the agency in a separate account, not to be commingled with other funds;
- prohibit UNFPA from funding abortion;
- prohibit UNFPA from using any U.S. funds for their programming in China;
- reduce the U.S. contribution to UNFPA by one dollar for every dollar that UNFPA spends on its programming in China (“dollar-for-dollar withholding”); and
- in some years, state that not more than half of funding designated for the U.S. contribution to UNFPA is to be released before a particular date, which varies by fiscal year (this provision is not currently in effect).

## WHAT HAPPENS TO FUNDING THAT IS WITHHELD FROM UNFPA?

For several years, including FY 2017, Congress has required that funding withheld from UNFPA be reallocated to USAID’s family planning, maternal, and reproductive health activities.<sup>22</sup> The enactment of this provision first affected reallocation of FY 2002 funds.<sup>23</sup> It is now typically included in the State and Foreign Operations appropriations act each year.<sup>24</sup>

## Endnotes

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<sup>1</sup> U.S. Congress, FY 2017 Consolidated Appropriations Act (P.L. 115-31), May 5, 2017; Kaiser Family Foundation (KFF), [The U.S. Government and International Family Planning & Reproductive Health: Statutory Requirements and Policies](#), fact sheet.

<sup>2</sup> Congressional Research Service (CRS), *The U.N. Population Fund: Background and the U.S. Funding Debate*, RL32703, July 2010; “Policy Statement of the United States of America at the United Nations International Conference on Population (Second Session), Mexico City, Mexico, August 6-14, 1984,” undated.

<sup>3</sup> “Policy Statement of the United States of America at the United Nations International Conference on Population (Second Session), Mexico City, Mexico, August 6-14, 1984,” undated; United Nations Division of Economic and Social Affairs/Population Division, “United Nations Conferences on Population,” webpage, undated, <http://www.un.org/en/development/desa/population/events/conference/index.shtml>.

<sup>4</sup> “Policy Statement of the United States of America at the United Nations International Conference on Population (Second Session), Mexico City, Mexico, August 6-14, 1984,” undated.

<sup>5</sup> KFF, [The U.S. Global Health Budget: Analysis of Appropriations for Fiscal Year 2016](#), Jan. 20, 2016.

<sup>6</sup> Via FY 1985 supplemental appropriations, per CRS, *The U.N. Population Fund: Background and the U.S. Funding Debate*, RL32703, July 2010.

<sup>7</sup> Specifically, in this memorandum, President Trump stated, “I further direct the Secretary of State to take all necessary actions, to the extent permitted by law, to ensure that U.S. taxpayer dollars do not fund organizations or programs that support or participate in the management of a program of coercive abortion or involuntary sterilization.” White House, “The Mexico City Policy,” Memorandum for the Secretary of State, the Secretary of Health and Human Services, the Administrator of the Agency for International Development, Jan. 23, 2017, <https://www.whitehouse.gov/the-press-office/2017/01/23/presidential-memorandum-regarding-mexico-city-policy>.

<sup>8</sup> However, after UNFPA ended its program in China in 1997 but then began a new program there in 1999, this resulted in Congress withholding funding from UNFPA that year.

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<sup>9</sup> In FY 1999, Congress prohibited UNFPA funding in response to the initiation of a new UNFPA program in China (this was unrelated to Kemp-Kasten), and in some other years when the U.S. made a contribution to UNFPA, UNFPA's China program meant some UNFPA funding was withheld under the "dollar-for-dollar withholding" provision.

<sup>10</sup> CRS, *The U.N. Population Fund: Background and the U.S. Funding Debate*, RL32703, July 2010; PAI, *Why the United States Should Maintain Funding for UNFPA*, May 2015.

<sup>11</sup> Not including U.N. inter-organizational transfers.

<sup>12</sup> \$30.8 million in core support and \$45.0 million in non-core support. UNFPA, "Donor contributions," webpage, <http://www.unfpa.org/donor-contributions>.

<sup>13</sup> KFF personal communication with UNFPA, April 2017.

<sup>14</sup> KFF analysis of data from: Congressional Appropriations Bills, Press Releases, and Conference Reports; Federal Agency Budget and Congressional Justification documents and Operating Plans; ForeignAssistance.gov; Office of Management and Budget, personal communication.

<sup>15</sup> UNFPA, *Annual Report 2013*, 2014.

<sup>16</sup> CRS, *United Nations System Funding: Congressional Issues*, RL33611, January 2013; UNFPA, "Frequently Asked Questions," webpage, updated April 2017, <http://www.unfpa.org/frequently-asked-questions#funds>.

<sup>17</sup> Typically included in annual State and Foreign Operations appropriations since FY 2008, including in FY 2017 under the terms of the continuing resolution. CRS, *The U.N. Population Fund: Background and the U.S. Funding Debate*, RL32703, July 2010; KFF analysis of appropriations bills.

<sup>18</sup> State Department: Letter to Bob Corker, Chairman, Committee on Foreign Relations, from Joseph E Macmanus, Bureau of Legislative Affairs, State Department, dated April 3, 2017, and accompanying "Determination Regarding the 'Kemp-Kasten Amendment,'" dated March 30, 2017, and "Memorandum of Justification for the Determination Regarding the 'Kemp-Kasten Amendment,'" undated. Available online (follows the article) at: <https://www.buzzfeed.com/jinamoore/the-us-wont-give-any-more-money-to-the-un-population-fund>.

<sup>19</sup> CRS, *The U.N. Population Fund: Background and the U.S. Funding Debate*, RL32703, July 2010.

<sup>20</sup> UNFPA, "Frequently Asked Questions," webpage, updated April 2017, <http://www.unfpa.org/frequently-asked-questions#abortion>.

<sup>21</sup> KFF, [The U.S. Government and International Family Planning & Reproductive Health: Statutory Requirements and Policies](#), fact sheet.

<sup>22</sup> U.S. Congress, FY 2017 Consolidated Appropriations Act (P.L. 115-31), May 5, 2017.

<sup>23</sup> "Although such reallocation began in practice in FY 2002, it was first authorized by Congress in legislation beginning in FY 2004 with reference to FY 2002 and FY 2003 funds," per KFF, [The U.S. Government and International Family Planning & Reproductive Health: Statutory Requirements and Policies](#), fact sheet.

<sup>24</sup> The activities to which Congress directs reallocated funds varies by fiscal year; in FY 2003, for example, reallocated funding supported assistance to vulnerable children and victims of trafficking in persons. CRS, *The U.N. Population Fund: Background and the U.S. Funding Debate*, RL32703, July 2010.