

# National Institutes of Health (NIH) Provisions Expiring in 2023

June 8, 2023

The [National Institutes of Health](#) (NIH), based in the Department of Health and Human Services (HHS), is the primary federal agency responsible for medical and health research. NIH is made up of 27 Institutes and Centers and the Office of the Director (OD). In addition, Congress established a new agency in FY2022—the [Advanced Research Projects Agency for Health](#) (ARPA-H)—that is housed within NIH. In FY2023, NIH has a [total program level](#) of \$49.2 billion, which includes \$1.5 billion for ARPA-H and \$47.7 billion for NIH Institutes and Centers and OD.

NIH programs are mostly authorized through the Public Health Service Act (PHSA), specifically PHSA [Section 301](#) and [Title IV](#). Some of NIH’s authorizations are expiring in 2023 or have previously expired. For the most part, NIH is funded by annual discretionary appropriations and has continued to receive annual appropriations, including where authorizations of appropriations have expired. However, NIH receives some mandatory appropriations and some funding subject to unique budgetary rules scheduled to expire in 2023.

## Authorizations of Discretionary Appropriations

### NIH-Wide Authorization

There is an authorization of appropriations for all of NIH (“PHSA Title IV”) in PHSA [Section 402A\(a\)\(1\)](#), which expired in FY2020 (42 U.S.C. §282a(a)(1)). This NIH-wide authorization of appropriations was established through the NIH Reform Act of 2006 (P.L. 109-482), which consolidated all of the authorizations of appropriations for specific NIH programs into one single authorization of appropriations for the entire agency. This provision was most recently reauthorized through the 21<sup>st</sup> Century Cures Act (P.L. 114-255) from FY2018 through FY2020. Congress has continued to appropriate NIH funding through annual appropriations laws.

**FY2024 Request:** The Biden Administration [proposed](#) a total FY2024 appropriation of \$47.9 billion under PHSA Section 402A(a)(1).

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## Gabriella Miller Kids First Research Program

In 2014, the Gabriella Miller Kids First Research Act (P.L. 113-94) established a new mechanism to fund a 10-year pediatric research initiative as a part of the [NIH Common Fund](#), a fund managed by the Office of Director intended to support short-term and multidisciplinary research projects. Specifically, the Kids First Act established a 10-year Pediatric Research Initiative Fund (PRIF), which receives transfers from the Presidential Nominating Convention Account within the Presidential Election Campaign Fund (PECF; 26 U.S.C. §9008(i)). Although the PRIF includes “10-year” in its name, transfers *into* the PRIF are not time-limited. Separately, the Kids First Act added a new authorization of appropriations of \$12.6 million annually from the PRIF to fund pediatric research grants supported by the Common Fund (PHSA [Section 402A\(a\)\(2\)](#), 42 U.S.C. §282a(a)(2)). The authorization of appropriations is set to expire in FY2023.

Since FY2015, appropriations laws have provided the \$12.6 million annually to support the [Kids First research program](#). In most years, these appropriations were made from the PRIF, as established by the Kids First Act. However, in two years—[FY2018](#) and [FY2022](#)—PRIF balances were too low to fund the full \$12.6 million for the program. In both years, Congress provided appropriations from the [Treasury General Fund](#) to finance the full \$12.6 million (see the [FY2022 NIH budget request](#)).

**FY2024 Request:** The Biden Administration [proposed](#) an FY2024 appropriation of \$12.6 million from the PRIF for the Kids First program, the same funding level and source as FY2023.

**Congressional Action:** In 2022, the House passed H.R. 623, which would have extended the program with an increased authorization of appropriations of \$25 million annually available from the PRIF for FY2023 through FY2027. In the 118<sup>th</sup> Congress, introduced bills (H.R. 3391, H.R. 546 and S. 1624) would address the program. H.R. 3391 is largely the same as the 2022 House-passed bill. S. 1624 would add a new funding source for the PRIF—Securities and Exchange Commission penalties on certain companies. H.R. 546 would terminate the PECF and transfer all remaining funds to the PRIF.

## Mandatory and Other Unique Funding Authorities

### Special Diabetes Program for Type 1 Diabetes

Provided through [PHSA Section 330B](#) (42 U.S.C. 254c-2), the [Special Diabetes Program \(SDP\) for Type 1 Diabetes Research](#) receives annual mandatory appropriations to fund research on type 1 diabetes at the National Institutes of Diabetes and Digestive and Kidney Diseases. SDP was first established in 1998. From FY2004 to FY2023, PHSA Section 330B has provided \$150 million annually—most recently extended in Consolidated Appropriations Act, 2021 (P.L. 116-260). However, due to Budget Control Act sequestration, the program received \$141.5 million in each of [FY2022](#) and [FY2023](#).

**FY2024 Request:** The Biden Administration has [proposed](#) SDP appropriations of \$250 million for FY2024, \$260 million for FY2025, and \$270 million for FY2026.

**Congressional Action:** In May 2023, the House Energy and Commerce Health Subcommittee [marked up](#) an SDP extension through an [amendment in the nature of a substitute](#) to H.R. 3281 ([Section 202](#)). The legislation would provide \$170 million in mandatory spending for each of FY2024 and FY2025.

### 21<sup>st</sup> Century Cures Act Innovation Account—Cancer Moonshot Initiative

The 21<sup>st</sup> Century Cures Act of 2016 (P.L. 114-255; Division A) established a new [NIH Innovation Account](#) to fund, on a discretionary basis, four innovation projects, including the [Cancer Moonshot](#). This account is subject to different budget enforcement rules than the rest of NIH’s discretionary appropriations. Amounts appropriated to the account—up to the limit authorized for each fiscal year—are subtracted from any cost estimate for enforcing discretionary spending limits (i.e., the budget caps). In

effect, appropriations to the NIH Innovation Account as authorized by the Cures Act are not subject to discretionary spending limits.

The Cures Act authorized appropriations for the Cancer Moonshot effort until FY2023 (Cures Act Section 1001). Congress could still continue to fund the Cancer Moonshot Initiative in FY2024 without reauthorizing the Cures Act provision; these appropriations would be subject to the same budget enforcement rules as other discretionary appropriations.

**FY2024 Request:** The Biden Administration has [proposed](#) to reauthorize the Cancer Moonshot Initiative and to provide \$2.9 billion in mandatory appropriations for the program in FY2025 and FY2026. This is part of the Administration’s “reignited” [Cancer Moonshot](#) initiative announced in 2022. In addition, the Biden Administration has proposed a broader Cancer Moonshot initiative with investments across HHS in cancer research, prevention, and control in its [FY2024 budget](#).

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