

# Science Funding: Up in Smoke?

By linking R&D funds to action on tobacco, the White House has thrown science agencies into the center of a complex political battle



If you are planning to submit a grant application to the National Institutes of Health (NIH), you might want to keep an eye on the tangled politics of tobacco. Your chances of being funded next year could depend on it. The record-setting increases proposed in the president's 1999 budget for NIH and some other science agencies rest on a key assumption: that Congress will pass a law that imposes broad new controls on tobacco and brings billions of dollars in penalties into the Treasury by 1 October. The plan has abruptly altered the dynamics of science funding, holding out the promise of sustained investments in research, but it has also added a fresh element of uncertainty to this year's budget battles in Congress. Even Republicans who back increased R&D spending say they reject the idea.

The White House specifically assumes that Congress will adopt a "comprehensive" bill this year to prevent youngsters from smoking, and that it will include a provision requiring tobacco companies to pony up "annual lump sum payments" in excise taxes or "penalties" for past harms. Although the president has not offered any tobacco legislation, his budget depends on this cash to start flowing immediately, with an installment of nearly \$10 billion in 1999. Of this, \$3.6 billion would be set aside for federal research.

According to the budget, payments would continue "rising each subsequent year, for a total of \$65 billion" by 2003. In an astute political move that would broaden support for such a scheme, the Administration would reserve more than half of the 5-year total (about \$38 billion) for popular state child-care programs, education, and other undefined uses such as aiding tobacco farmers. The rest would pay for federal programs: \$1.6 billion for smoking-control initiatives at the Food and Drug Administration (FDA) and the Centers for Disease Control and Prevention, and \$25.3 billion for federal research. The largest chunk of research money would go to NIH, paying for an 8.4% budget increase in 1999 and a 48% increase over 5 years.

This tobacco money would enable the government to increase its spending on these programs without tapping into other revenues. Indeed, in a preemptive strike, President Clinton has already said Congress should not divert any anticipated surplus this year to tax breaks or to federal agencies; that money, he said, should be used to "save Social Security." The problem, however, is that the prospects for any tobacco legislation are highly uncertain.

The anticipated basis for such legislation is a controversial agreement reached last year between 40 states and five big tobacco companies that would settle tens of billions of dollars of claims but grant the companies some protection from future lawsuits. New revelations about tobacco company schemes to market cigarettes to young people have left many in

money on "new Washington-based programs." Instead, he says, the money should go to shoring up Medicare. Senator Phil Gramm (R-TX), a co-sponsor of the R&D doubling bill, has taken a similar position.

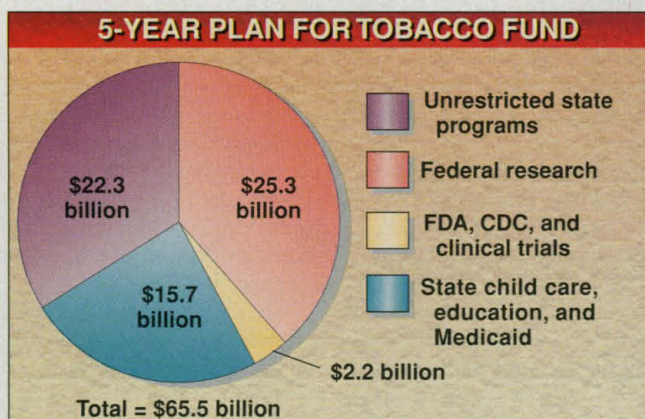
What is clear is that no tobacco legislation will be approved quickly. Indeed, "it is unlikely that we are going to see a tobacco settlement completed this year," says Porter. And that will leave legislators who want to increase funds for science scrambling to find a way to pay for those increases as they work on the budget over the next few months.

## Settlement or sellout?

The basis for overhauling the country's tobacco regulations—and the opportunity to snag a huge windfall for the Treasury—arose last year in talks between five major tobacco companies and 40 states. State attorneys general had ganged up on the industry, suing for reimbursement of Medicaid and other patient-care costs incurred, they say, because of the companies' promotion of cigarette smoking. On 20 June, the two negotiating teams unveiled a deal that they said could end the litigation and aid public health, if Congress would approve it.

The companies offered to pay a whopping \$368.5 billion to the plaintiffs and various governments over 25 years, accept strict regulation of their products, and curb advertising. In return, they asked the federal government to shield them from certain legal bills. The companies specifically asked Congress for a bar on class-action suits, protection from punitive damage awards for past deeds, and an annual limit of roughly \$5 billion on damages awarded to individual plaintiffs. The proposal is stunning, but Congress didn't leap at the offer.

Just days after these terms were unveiled, two of the nation's best known public health officials and antitobacco crusaders—former Surgeon General C. Everett Koop and former FDA Commissioner David Kessler, now dean of the Yale medical school—denounced the proposal. Both argued that the settlement provided too little in return for indemnity from class-action suits. Koop told reporters he was concerned that the public might be "snookered" by the cash offer. Koop and Kessler were later joined by other public



**Hazy finance.** The Administration's budget earmarks almost 40% of potential tobacco revenues for research.

Congress wary of making any such deal, and an entirely new approach will have to be worked out, many in Congress now say.

That puts science funding advocates in an awkward position. Representative John Porter (R-IL), chair of the House appropriations subcommittee that prepares the NIH budget, and his Senate counterpart, Senator Arlen Specter (R-PA), have both voiced support for the NIH increases proposed in the budget but are wary about the way the president has proposed funding them. The tobacco revenue is "pie in the sky," Specter believes, "since we are nowhere near an agreement" on the tobacco deal. And Senate Budget Committee Chair Pete Domenici (R-NM), who last fall endorsed a bill that calls for doubling civilian R&D spending within a decade, has blasted the plan to spend tobacco

SOURCE: WHITE HOUSE



health advocacy groups, including the American Lung Association and the American Medical Association, in urging Congress not to accept the proposal without revision.

After reviewing the proposed tobacco settlement for several months, President Clinton announced last September that he would not support a deal giving the companies broad protection against lawsuits. The White House laid out five requirements for any tobacco bill:

a program to reduce teen smoking and recognition of FDA's full authority to regulate tobacco, improved methods of compensating tobacco "victims," new incentives to get cigarette-makers to disclose private documents, and only limited, "constitutionally sound" changes—if any—to the civil tort system. This seemed to put the White House in the no-concessions camp with Koop and Kessler.

But then, as the Administration put together its budget last fall, it seized upon the tobacco negotiations as a way of helping to pay for increases in R&D spending. This scheme was not seriously considered until December, White House officials say. Up to that point, they had been considering massive cuts for NASA and only modest boosts for NIH and the National Science Foundation. The possibility of tobacco money changed the picture radically. Staffers at the Office of Management and Budget, along with the vice president's office, argued that a good share of the funding should go for science in general and to cancer research in particular, a position backed by the Office of Science and Technology Policy.

Last week, the Administration seemed to signal that it might be willing to consider limited immunity for the tobacco companies. In testimony before the House Judiciary committee on 5 February, David Ogden, a counselor to the attorney general, said that if Congress agrees on a bill that meets the Administration's five principles, "reasonable provisions modifying the civil liability of the tobacco industry would not be a deal breaker." White House spokesperson Mike McCurry later said the president wants "to increase the possibility" of getting a bill through Congress, but "we obviously prefer a comprehensive tobacco bill without any liability limits."

Meanwhile, the companies—pressured by members of Congress and by Minnesota, the only state to take a tobacco lawsuit to trial—have been releasing new documents from their files revealing past strategies for selling cigarettes to young people. This hasn't done their case any good in Congress. Many Republicans have said that now this new evidence is on the table, they don't want to have

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**—Rep. John Porter**

anything to do with a bill that gives legal protection to the companies.

Congressional leaders are now working with small groups of legislators to try to come up with compromises that might reshape and rescue the tobacco deal. Already on the table is a proposal by Senator Edward Kennedy (D-MA) to build a smoking prevention and research program on a new \$1.50 tax on every pack of cigarettes, with no grant of legal protection to the companies. Others, such as Senator Orrin Hatch (R-UT), have proposed a middle-ground solution that includes some protection for the industry. Senator James Jeffords (R-VT), chair of the Labor and Human Resources Committee, was planning to unveil his own proposal this week. And Senator Kent Conrad (D-ND) has drawn up a bill supported by the Administration that reportedly calls for stiffer penalties amounting to about \$550 billion. Several other bill-writing teams—including one bipartisan Senate group—are now hard at work.

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**—Sen. Arlen Specter**



there will be a deal granting the industry immunity [from litigation]," because no one will want to accept the risk of being perceived as a friend of tobacco. Yet at the same time, Kessler says, "I'm all in favor of an excise tax on cigarettes" that would raise the price and make it harder for teenagers to buy cigarettes. He adds, "I am strongly in favor of using that money for biomedical research."

Kessler warns, however, that the federal government must be careful not to get "hooked on tobacco money."

#### **No deal, no funds?**

With this complex dance over a possible tobacco deal just getting under way, some members of Congress say it's far too early to be counting on the deal to provide any windfall revenue. Representative James Sensenbrenner (R-WI), who chairs the House Science Committee, has said he thinks "the president is putting funding for his new focus on science in jeopardy" by counting on "unrealized money from the proposed tobacco settlement."

Other sources of money may also be problematic. Last year, before there was talk of funding biomedical research through tobacco revenues, Senator Specter and Representative Porter both aligned themselves with efforts to double NIH's budget over 5 years. Porter says he remains committed to big increases for NIH, but because no tobacco deal will be likely before the budget is finalized, "we are going to have to derive our increases for NIH from existing revenue sources, which is going to be much more difficult." Porter says he would like to see NIH get a 14% to 15% raise this year. "That would be possible if we get an allocation" from House budget managers allowing a big increase in social programs, Porter says, adding that, "I'm certainly trying to make them think that way." But so far they haven't shown signs of agreeing.

Specter said in a prepared statement that "I like the president's proposal to increase funding for education and NIH, but I do not know how we would pay for many of his funding increases." In January, Specter introduced a "sense of the Senate" resolution that seeks to spur his own party and the Democrats into setting aside a \$2 billion increase for NIH this year, regardless of what they do about tobacco. This is about twice the increase sought by the Administration.

The politics of science funding this year are therefore likely to be on familiar ground: Supporters of big increases will be competing with other politically popular programs for a slice of a limited pie. And if Congress fails to pass tobacco legislation at all, hopes for a big boom in research funding in future years may falter as well. Don't count on that grant application being funded just yet.

**—Eliot Marshall**

*With reporting by Andrew Lawler.*