Saturday, August 2, 1997

White House Rejects Tobacco Tax Provision

■ Legislation: Industry can't use cigarette tax break to offset cost of proposed settlement, officials say.

From Times Staff and Wire Reports

Cigarette makers will not be able to use a new tax break granted by the Republican Congress to help offset the cost of the pending tobacco settlement, White House officials said Friday.

The provision would have let the industry credit a new 15-cents-per-pack cigarette tax increase against its proposed out-of-court settlement with 39 states.

The mammoth settlement, which requires approval by Congress and the Clinton administration, would call for the industry to pay $368.5 billion over 25 years to settle tobacco litigation.

The tax break was tucked into the bill with the blessing of House Speaker Newt Gingrich (R-Ga.) and Senate Majority Leader Trent Lott (R-Miss.). It would allow the cigarette makers to reduce settlement payments by the estimated $50 billion to be raised by the 15-cent tax increase over the next 25 years.

"Our view is that the net liability that the companies will face as a result of the settlement will not be reduced" by the tax, said White House spokesman Mike McCurry.

Although the White House criticized the provision, Gingrich said administration officials knew it was in the bill.

"They signed off on it," he said. "They were quite content with it."

Lott has publicly recused himself from review of the tobacco settlement because his brother-in-law, private attorney Richard Scruggs, helped negotiate the deal.

Nonetheless, Lott said Friday that he thought the tax increase "should count as a credit against" settlement payments.

"As I understand, if [the tax] is on top of [the settlement], it could cause the whole thing to blow apart," Lott said.

Meanwhile, jury selection began Friday in West Palm Beach, Fla., in a massive anti-tobacco lawsuit in which the state of Florida is seeking to recover the costs of treating sick smokers.

"For the first time, the people are going to get to hear . . . what tobacco has been covering up for years," said Gov. Lawton Chiles, who along with Atty. Gen. Bob Butterworth showed up for the start of jury selection.

The Florida case was one of 39 state lawsuits that the industry hoped to resolve through the national settlement. But with congressional approval of the deal uncertain, states with the earliest trial dates are insisting on separate settlements or are going forward with their trials.

The Mississippi case, the first scheduled for trial, in early July, was settled almost at the eleventh hour when the industry agreed to pay the state $3.4 billion over the next 25 years. Negotiators for Florida and the tobacco companies have been discussing a settlement, but the two sides are said to be far apart. However, with jury selection expected to last a month, the parties could still reach an agreement before the first witnesses are called.

White House Irked by Tobacco Wins

By Sandra Sobieraj
Associated Press Writer
Friday, August 1, 1997; 7:39 p.m. EDT

WASHINGTON (AP) -- Top Clinton administration officials were irked Friday at what they viewed as tobacco industry successes in the budget and tax packages passed by Congress this week and in still pending appropriations bills.

A last-minute revision to the tax bill that Congress passed this week directed that revenue from a 15-cent-per-pack increase in cigarette taxes be credited to the industry's costs in whatever overall tobacco settlement comes out of Congress instead of for expanding child health programs.

``If they wanted to send us a message that they haven't changed their stripes, they certainly did that," Health and Human Services Secretary Donna Shalala said Friday.

Shalala and Bruce Reed, President Clinton's top domestic policy adviser, wrapped up three weeks of consultations with outside groups on the proposed $368 billion settlement between tobacco companies and a handful of state attorneys general.

``The tobacco companies did not indicate good faith in what they did on the tax side of the bill," Shalala told reporters outside the White House. ``And that is something that we will remember as we advise the president, advise Congress as to what our position is."

She said the tax provision, on top of House and Senate action to shrink funds the adminsitration requested to enforce tobacco regulations, demonstrates that the industry cannot be trusted.

The administration asked Congress for $34 million in fiscal 1998 for Food and Drug Administration enforcement of tobacco rules. The Senate has voted for just $5 million, the

House for about $24 million in appropriations bills still awaiting final congressional action.

``Our inability to get the money we need in FDA enforcement is a sure sign that they were playing behind the scenes," Shalala said. ``...Their addition to the tax bill is another sign that these (settlement) negotiations, if the president decides to participate in them, will be very tough negotiations."

If the tax provision stands, the administration would ask Congress to add another 15-cent-per-pack increase in cigarette taxes to legislation codifying any tobacco settlement, Reed said.

``I want to be crystal clear on this point: The 15 cents that we won for children's health this week will be on top of any settlement," he said.

In Friday's meetings with retailers and advertising industry leaders, Shalala and Reed agreed to consider voluntary restrictions on cigarette ads as an alternative to a proposed legislative ban, which critics say may be unconstitutional.

``We certainly see a voluntary agreement by the companies to stop advertising as a potential strength," said Reed. He also said the administration was inclined to ``add to the companies' cost" by strengthening penalties for failing to meet youth smoking-reduction targets.

Reed said a 50-person team of agency analysts would next finalize a recommendation for the president. They hoped to have it to him before he starts a three-week vacation Aug. 17.

Back to the top

washingtonpost.com
| home page | site index | search | help |

Clinton Panel Likely to Bless Tobacco Deal

By Jeffrey Taylor
And Hilary Stout

Staff Reporters of The Wall Street Journal

WASHINGTON — The Clinton administration task force reviewing the landmark tobacco settlement probably will recommend that the president embrace the deal, so long as it includes tougher penalties for cigarette companies, greater government authority to regulate nicotine and several other smaller changes.

Hoping to finish their review of the proposed $368.5 billion settlement next month, officials have narrowed their demands to two major areas: beefing up provisions asserting the Food and Drug Administration's ability to regulate nicotine, and strengthening the penalties tobacco companies would pay if smoking by the young doesn't fall to targeted levels. The task force also will probably offer explicit recommendations for how the money should be spent, including calling for tobacco farmers to receive some compensation for anticipated reduction in demand for their crop. Moreover, the group may push cigarette companies to turn over more documents than the current settlement requires.

Officials cautioned that they aren't finished with their review and stressed that President Clinton will make the final decision on whether to support the settlement, which was negotiated by state attorneys general, representatives of public-health groups and Philip Morris Cos., RJR Nabisco Holdings Corp. and B.A.T Industries PLC.

The tobacco companies negotiated the deal to settle dozens of lawsuits filed by states to recover Medicaid costs for smoking-related illnesses.

Vice President Al Gore is said to be skeptical of the settlement and unsure that the tobacco industry can be trusted to hold up its end of the agreement. Nevertheless, officials said that even Mr. Gore isn't arguing that the settlement should be abandoned.

In one of the clearest signs that a deal is possible, administration officials said they probably can accept one of the tobacco industry's most important priorities — a provision barring smokers' lawsuits seeking punitive damages for the industry's past behavior.

It isn't clear whether the industry will fight the changes the administration plans to seek. At a briefing with reporters last week, two tobacco-industry representatives said they were willing to consider changes in the FDA provisions, but they defended the settlement's three prerequisites for any enforced reduction of nicotine: that such an action be proved to reduce health risks, that it be technically feasible and that it not lead to a Prohibi-

Please Turn to Page A16, Column 1

Continued From Page A3

tion-style black market in high-nicotine cigarettes.

President Clinton already has said that the black-market point is unacceptable. Administration officials said they plan to insist on legislation that strongly affirms the FDA's power to regulate cigarettes with a clear and explicit description of the agency's authority over nicotine.

The Teen-Smoking Campaign

The administration also is concerned about parts of the settlement that spell out penalties the industry would have to pay if smoking among teenagers isn't sharply reduced. The settlement prescribes a schedule of reductions, starting with 30% after five years and growing to 50% in seven years and 60% in 10 years. Tobacco companies would have to pay fines of as much as $2 billion a year if they fail to meet these targets but could deduct such payments from their taxes and could petition to get 75% of their money back if they prove they pursued all "reasonably available measures" to reduce youth smoking.

The administration plans a substantial reworking of the youth-smoking penalties. Officials probably will insist on eliminating the tax deduction and may prohibit or sharply restrict the industry's ability to apply for refunds. The administration also probably will require that those penalties be assessed on a company-by-company basis, as was recommended by an anti-smoking task force headed by former FDA commissioner David Kessler and former surgeon general C. Everett Koop. It also may change the method used to calculate the fines to be sure they are substantial.

While tobacco companies won't necessarily agree with all these changes, the two industry representatives said last week that they are open to discussing different ways to structure the penalties.

The industry delegates seemed convinced that they were entitled to deduct from taxes the $368.5 billion that they would pay under other parts of the settlement, arguing that all existing legal precedents support allowing such a deduction as an ordinary business expense. The Clinton administration appears likely to leave this deduction intact but to argue that the youth-smoking penalties are different and can't be deducted.

The administration also may seek to force the industry to release thousands of pages of documents that officials believe might help in the effort to understand how to reduce the dangers of smoking. Members of the Senate Judiciary Committee, including Democrat Patrick Leahy of Vermont, and Minnesota Attorney General Hubert Humphrey III argue that cigarette companies shouldn't be given immunity from civil liability for punitive damages until they have released any incriminating documents.

Potential Demand for Documents

The tobacco industry's representatives said last week that they are willing to establish procedures for the disclosure of many documents but stated that they see no way to do so without immunity from punitive damages for past misconduct.

The administration will suggest clarifications in parts of the agreement it regards as vague, such as how the money for a $25 billion "research fund" will be spent. The administration also will propose changes to some "technical" aspects of the settlement, including those that spell out the sweeping advertising and marketing restrictions that would eliminate characters such as the Marlboro Man, prohibit placement of cigarette brands in movies and require such boldface warnings on cigarette packs as "Smoking Can Kill You."

The settlement calls for tobacco companies to sign a separate "protocol" that spells out these restrictions, but the administration wants to change the protocol's wording to eliminate any potential loopholes.

Separately, Democratic Sen. Frank Lautenberg of New Jersey complained that the Senate Appropriations Committee didn't provide $34 million that the Clinton administration requested to enforce an FDA rule to prevent teens from buying cigarettes. The panel instead provided $4.9 million as part of an agricultural appropriations bill it approved last week; the committee leadership said that it needed the rest of the money for a food-safety initiative and that the proposed settlement would yield enough money for tobacco enforcement.

—David Rogers contributed to this article.

LeBow Says Philip Morris Paid Some Liggett Law Bills

MIAMI (AP) — Philip Morris Cos., the nation's biggest cigarette maker, paid Liggett Group's legal bills for months in an attempt to buy its silence about the dangers of smoking, a lawyer charged.

Stanley Rosenblatt, an attorney for flight attendants suing the tobacco industry for $5 billion because of illnesses they blame on smoky cabin air, made the charge during testimony by Liggett owner Bennett LeBow.

Philip Morris "didn't pay his bills out of the goodness of their heart," Mr. Rosenblatt said. "That was a means of buying his silence and his cooperation so he would not be a spokesman for the opposite position."

Mr. LeBow testified that Philip Morris agreed to pay $10 million a year of his company's legal bills while he rethought his position on smoking and health.

In March 1996, Liggett, a unit of Brooke Group Ltd., became the first tobacco company to break ranks and acknowledge that cigarettes are addictive and cause cancer.

Philip Morris declined to comment yesterday. But previously the company has said it paid Liggett's legal fees to allow the smaller tobacco firm to present an aggressive defense.

Mr. LeBow told the jury that Philip Morris made the offer in late 1995 and canceled it after five or six months.

THE WALL STREET JOURNAL TUESDAY, JULY 22, 1997

The New York Times
Breaking
NEWS FROM A.P.

July 15, 1997

Clinton Uneasy With Tobacco Deal

Filed at 2:36 p.m. EDT

By The Associated Press

WASHINGTON (AP) -- Cigarette companies did not rule out giving up tax breaks or paying stiffer fines in exchange for President Clinton's blessing on their proposed tobacco settlement, the Clinton administration said today.

``They established no line. They didn't turn us up or turn us down,'' Health and Human Services Secretary Donna Shalala said after a 90-minute meeting with tobacco industry lawyers and White House senior adviser Bruce Reed.

The administration is looking for ways to accommodate critics of the settlement who say it amounts to a slap on the wrist if the industry's $368.5 billion in payments is fully tax deductible. Public health activists also want stiffer penalties if the cigarette makers do not meet targets for reducing teen smoking.

``We made clear to them that while we see the settlement as a real opportunity, we will insist that it be strengthened in some areas,'' Reed told reporters. ``We also gave them a clear message to take back to New York, which is that if the settlement is going to work they have a responsibility to look out for our bottom line, which is reducing smoking especially by kids.''

Lead tobacco negotiator Phil Carlton refused to comment as he hustled down the White House driveway.

Shalala and Reed met with Carlton's team to determine how flexible they will be in reworking a proposed tobacco settlement.

While members of Congress have expressed outrage that all the settlement's $368.5 billion in payments over 25 years are fully tax deductible, Shalala seemed to defend the deductibility today.

``To be fair about tax deductibility, it is standard business practice in a settlement to deduct the cost of that settlement from one's business taxes,'' Shalala said. She would not elaborate on what, if any, alternative the administration would offer to full deductibility.

``This is not a negotiating session,'' White House spokesman Mike McCurry said, describing the meeting as part of the president's review of the settlement.

McCurry also said the administration's timing is uncertain for drafting legislation to enforce the proposed settlement.

``It depends on whether we believe it deserves our support and we haven't made that determination as yet," he said.

Philip Morris attorney Meyer Koplow told senators two weeks ago that tobacco companies are ``reasonably optimistic that we'll be able to satisfy ... desired changes."

Clinton already rejected the tobacco deal's severe restrictions on government control of nicotine.

Also today, the American Heart Association will was unveiling its own critique of the deal, calling on Clinton to toughen the FDA and teen-age smoking portions.

On Wednesday, a Senate hearing will explore whether the deal can legally ban class-action lawsuits against tobacco companies and enact other liability protection.

The proposed deal aims to settle state lawsuits pending against the tobacco industry, but Congress must approve the deal by passing legislation that would allow different aspects of the agreement to go forward.

Tobacco companies have balked at Clinton's call to restore full Food and Drug Administration control over nicotine.

Related Information From Hoover's Inc.
Philip Morris Companies Inc

Tuesday July 15 2:06 PM EDT

White House may seek more changes in tobacco pact

WASHINGTON, July 15 (Reuter) - The White House on Tuesday told representatives of the tobacco industry that it may seek additional changes to the tobacco settlement reached in June, a senior White House official said.

``We made clear to them that while we see the settlement as a real opportunity, we will insist that it be strengthened in certain areas, including FDA authority, as the president said last week, (and) perhaps other areas as well," Bruce Reed, White House domestic policy adviser, told reporters after a meeting with industry representatives at the White House.

``We also gave them a clear message to take back to New York, which is that if this settlement is going to work, they have a responsibility to look out for our bottom line, which is reducing smoking, especially among kids," Reed added.

The meeting with tobacco industry representatives is one of a series of sessions that White House officials have held to discuss the proposed $368.5 billion settlement between state attorneys general and the tobacco industry. They have already met with health officials and state attorneys general. A session with tobacco farmers is scheduled for Wednesday.

Phil Carlton, an attorney for RJR Nabisco Holdings Corp (RN), said the industry representatives wanted to explain the deal to the White House and the reasoning behind it. He said the industry also wanted to hear the administration's concerns and establish an ongoing dialogue with the White House. RJR's R.J. Reynolds Tobacco Co unit makes Camel and other cigarette brands.

``We had an excellent meeting," he said. ``We explained the deal in its present form and listened to what they had to say about it."

More news for referenced ticker symbols: RN, *and related categories and industries*: food/beverages, healthcare, household, insurance, leisure, tobacco, stock capsules, options.

Help

The New York Times

July 15, 1997

Analysis: With White House Skeptical of Pact, Industry Faces Tough Test

Related Article
- Trial Begins in Class-Action Suit on Secondhand Smoke
- Coverage of the Tobacco Settlement

Forum
- Join a Discussion on The Tobacco Settlement

By BARRY MEIER

As cigarette industry representatives meet on Tuesday with a special White House task force reviewing the proposed tobacco accord, they are likely to find a more skeptical audience than they did during settlement talks with state attorneys general.

Both industry and state officials have argued that the $368.5-billion pact is a major step toward reducing the health threats posed by smoking. But last week, President Clinton rejected a part of the plan that would have required federal regulators to prove that reducing nicotine levels in cigarettes would not create a black market for full-strength products.

Now, after months of negotiations, the proposed accord is likely to face tough tests on the issue that matters most to industry: the ultimate pricetag for congressional legislation that will buy it peace and protection from tobacco litigation.

"For industry, money is the bottom line," said one source who participated in the negotiation.

In a meeting two weeks ago, Bruce Lindsey, the deputy White House counsel, told industry lawyers that the black-market provision and other aspects of the plan -- like the amount of money cigarette companies will pay in fines if youth smoking fails to fall -- may prove problematic. Now the White House task force, which is headed by Donna Shalala, secretary of health and human services, and Bruce Reed, the president's chief domestic policy adviser, is scrutinizing the 68-page settlement for problems in a process expected to take a few weeks.

"We are looking at every aspect of this, from punitive damages to the economics of it," Shalala said recently. "But most important is whether it works to achieve our goals in public health."

Under the proposed settlement, which was reached on June 20 and which must be approved by Congress, the industry agreed to pay tens of billions of dollars to settle state lawsuits seeking to recover smoking-related health care costs; to restrict its advertising, and to help public health advocates work to lower youth smoking. In exchange, the industry would receive protections from some smoking-related lawsuits and punitive damages.

Industry officials have said they are not likely to walk away from the proposal solely because of how the black-market issue is resolved. But the dispute over the provision may foreshadow some of the troubles that lie ahead for the proposal.

Lindsey said in a telephone interview on Sunday that before the plan was publicly unveiled, he was told that the Food and Drug Administration would have the authority to require a lower nicotine content in tobacco products if it could show that such a step was supported by science, was technically feasible and would not create a black market in such products.

But Lindsey said that after FDA and Justice Department officials more closely examined the proposal, they discovered that the language on the black-market issue tilted the playing field in industry's favor by requiring the agency to meet an unacceptably tough legal test before ordering lower nicotine levels.

"Placing the burden on the agency pushed this one over the top," Lindsey said.

The White House panel is examining the settlement proposal with new eyes and far different emotions that those involved in drafting the plan. And many of over 50 officials on the panel -- from agencies including the FDA, the Centers for Disease Control and the Treasury and Justice Departments -- are eager to put their own imprint on any legislative proposal that may emerge.

"There are panel members who think that industry is trying to write its own regulatory blueprint and others who think that the proposal is an opportunity that we can't afford to let go by," one source familiar with the panel said.

Among the issues that may prove particularly nettlesome to the industry is the question of the amount of fines the industry would pay if specified goals in reducing youth smoking are not met.

While the proposal put a $2-billion cap on the amount of such fines, David Kessler, the former FDA commissioner, and other public health advocates have said the fines should be unlimited and made specific to companies so that industry leaders are not penalized for the efforts of laggards. One administration official, speaking on condition of anonymity, said that making the penalties tax-deductible, which the proposal does, waters down its sting for industry.

"If a penalty is tax-deductible, the value of it is a third less than it would otherwise be," that official said.

In their meeting on Tuesday with the White House panel, industry lawyers who helped negotiate the proposed accord are expected to make their case for it and answer questions posed by government officials. But industry officials, speaking on the condition of anonymity, said they would fight any moves that would significantly increase the settlement's price tag.

"We are giving the health community everything they have always said would work to reduce youth smoking in terms of billboards, advertising and countermarketing," said one tobacco company official, referring to aspects of the proposal. "But then if it doesn't work out that way, I don't understand why we should pay more for doing what they wanted."

During the tobacco negotiations, Philip Morris Cos., the dominant company in the cigarette industry, clashed with its smaller rivals over the issue of money, said people close to the talks. And the resources of some companies to pay more may also be strained.

For example, RJR Nabisco Holding Corp., the parent company of the R.J. Reynolds Tobacco Co., will make a far smaller contribution to the first $10-billion payment if the settlement is approved than its market share would dictate because of its shaky finances.

The recommendations of the review panel are not expected to reach the White House for several weeks. At that time, Lindsey says, it will be the administration's turn to decide what to do next before helping to cement the nation's policy on tobacco for decades to come.

"We need to look at this from every possible direction and for every possible consequence before we decide whether to sign off on it or not," Lindsey said.

Home | Sections | Contents | Search | Forums | Help

Q&A on Tobacco Settlement

June 20, 1997

Q. **Did the Administration help close the deal?**

A. No. My staff monitored the talks closely so that we would be in a position to evaluate and respond to any possible settlement. We consistently told the parties that they would have to close an agreement on their own, and they were able to do so without any help from the Administration.

Q. **How will you proceed?**

A. I have asked my Domestic Policy Advisor, along with the Secretary of Health and Human Services, to undertake a thorough public health review of this agreement. They will consult with all interested agencies, members of Congress, and the public health community.

Q. **How long will the review take?**

A. The review will take as long as necessary to conduct a careful analysis, but we will seek to work promptly and expeditiously. We expect this to be a matter of weeks, not months.

Q. **Dr. Kessler and Dr. Koop have asked in a letter to you that you give them 30 days to complete their own review before signing off on anything. Are you going to wait?**

A. I intend to consider closely the views of the public health community, including Drs. Koop and Kessler, before rendering any judgment on the settlement. But it is premature to commit to any firm timetable for reaching my conclusion.

Q. **What will you look at in evaluating this agreement?**

A. We will evaluate whether this agreement protects the public health -- and particularly the health of our children. We will pay special attention to the part of the agreement dealing with FDA jurisdiction. The actions the FDA has taken under this Administration forced the industry to the bargaining table, and we will insist that the FDA has all necessary authority to regulate nicotine and tobacco products. We also will carefully review the financial terms of the settlement, including whether the money will go toward protecting the health of our children and the general public.

Q. **The final deal limits punitive damages -- a key concession to the tobacco industry. Won't you oppose that given your previous opposition to caps on punitive awards?**

A. The limitation on punitive damages for past misconduct is not a deal-breaker for us. We understand that the attorneys general extracted substantial concessions from the tobacco companies for this limitation, and we will evaluate whether the agreement as a whole advances the nation's public health interests.

Q. **Are you taking a political risk in considering approval of this settlement?**

A. This isn't about politics; it's about protecting the public health. We didn't think about politics when we took on the tobacco companies last year with our announcement of the FDA rule. And we won't look to politics now in evaluating this agreement.

Companies Warn Against Tinkering With Tobacco Deal

By John Schwartz and Peter Baker
Washington Post Staff Writers

Tobacco companies yesterday warned President Clinton against tinkering too much with the proposed nationwide settlement, but stopped short of walking away from the deal.

"We look forward to the opportunity to make the case for keeping intact the provisions of the proposed resolution as negotiated," read a joint statement from Philip Morris Cos. Inc., R. J. Reynolds Tobacco Co., Brown & Williamson Tobacco Corp., Lorillard Tobacco Co. and United States Tobacco Co.

The statement came as Clinton called the parts of the proposal that would restrict the government's authority to regulate nicotine and other components of tobacco products "totally unreasonable."

The president predicted the industry will not abandon a deal over the single provision. "I cannot believe that the tobacco companies or others would bring down the entire settlement over that," he said, noting "there are a lot of really important good things" in the proposal.

Clinton's statement from the NATO summit in Madrid came on the same day that former surgeon general C. Everett Koop and former Food and Drug Administration commissioner David A. Kessler delivered to the White House a tough critique of the deal and a proposed blueprint for a national tobacco policy.

The deal faces mounting opposition in Congress, which would have to approve provisions limiting class-action lawsuits and banning awards of punitive damages against the industry.

Senate Minority Leader Thomas A. Daschle (D-S.D.) said it faces a "very uncertain future" on Capitol Hill and virtually ruled out the possibility of congressional action this year.

"I think it's almost an impossibility for Congress to deal with this issue this session," Daschle told reporters. "The longer it's out there, certainly, the more we will understand, and perhaps the more we understand the more skeptical we become."

The companies contend that heavy-handed regulation of nicotine and other components of tobacco products would be tantamount to a ban, which could lead to a flourishing black market in unregulated cigarettes. But the president played down the issue, saying: "Would we deny the FDA the right to protect 100 percent of our children because there might be a few black market cigarettes around?"

The prospect of a black market is "a legitimate concern for all Americans," the companies said. "The White House has repeatedly made clear that it is not in favor of prohibiting the use of tobacco products by adults, and the concern over development of a substantial black market has been articulated by the Food and Drug Administration itself."

"The preservation of the rights of American adults to choose to use tobacco products is a central element of the proposed tobacco resolution," the companies wrote.

Top Clinton aides met with Koop and Kessler yesterday in the White House Roosevelt room to discuss the committee's blueprint for tobacco policy. The report by the former public health officials proposes full FDA regulatory authority and advertising restrictions, an excise tax of $2 per pack or more and new limits on smoking in workplaces, schools and even outdoor areas such as sports stadiums. It also suggests that the United States work with other nations to promote tobacco control efforts. Koop said the document was not a criticism of the settlement proposal so much as "a template" to use in crafting final legislation.

In the meeting, which lasted more than an hour, Kessler warned of the risks of any agreement that would hamstring the FDA, and cautioned special care in any attempt to set standards and penalties for measuring progress on reducing youth smoking rates, according to an administration official who was present.

After the meeting, Clinton's chief domestic policy adviser, Bruce Reed, called the settlement "an exciting opportunity." Health and Human Services Secretary Donna E. Shalala brushed off concerns that tobacco executives would give up on the deal because of demands for further concessions. "There's nothing fragile about the tobacco industry in this country," she said.

Shalala also sent a signal about another area where the administration may seek revisions, pointing out that tobacco companies could write the $368.5 billion settlement off on their taxes, which she called a "cost shift to taxpayers."

Staff writer Helen Dewar contributed to this report.