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PENNSYLVANIA AVENUE
By Morton M. Kondracke

Deal or No, Dems Smell '98 Victory On Tobacco Issue

The Clinton Administration thinks it can win the 1998 tobacco wars by forcing Republicans to enact a big cigarette tax using the argument that it's the only way to reduce teenage smoking.

Or, if Republicans resist the tax, Democrats are prepared to charge in the coming Congressional campaign that the GOP is more interested in protecting tobacco companies than in saving lives.

In another phase of tobacco hardball, Vice President Al Gore announced yesterday that the Administration favors tough anti-tobacco legislation that would severely limit the amount of protection that companies get from future lawsuits.

Beginning to feel boxed in, some Republicans are lashing out at the White House for making tobacco a partisan issue. Senate Commerce Chairman John McCain (R-Ariz) pointed out that only Democrats support the bill sponsored by Sen. Kent Conrad (D-ND) that Gore endorsed, which McCain called "great propaganda" that can't pass Congress.

McCain also complained in an interview that the Administration won't send top-level witnesses to work with his committee. "Maybe they'll find an intern," he jibed, with an obvious reference to the Monica Lewinsky scandal.

GOP Congressional leaders have said they oppose Clinton's plan to increase cigarette taxes by $1.10 per pack because they don't like the social spending programs the President wants to finance with them, which include building new schools and hiring more teachers.

Clinton's proposed tax would raise $65 billion over five years, which would be used to pay for a 50 percent increase in medical research, assistance to states for child care programs, medical care for poor children, and education programs.

GOP leaders like Sen. Trent Lott (Miss) and Rep. Tom DeLay (Texas) also have said they doubt it will be possible to pass a major tobacco deal this year because Democrats not only insist on tacking on major taxes, but also refuse to give tobacco companies what they most want, freedom from liability in future lawsuits.

Instead of a "big" tobacco bill, Republicans have been saying, what's likely to pass is a bill limited to measures and funds designed to prevent teenage smoking.

Such a bill, containing bans on advertising, promotion, and sales to young people, would be designed to protect the GOP from charges that it did nothing in the face of mounting evidence that tobacco companies targeted young people to get new generations of smokers hooked early.

But the Administration thinks it has the GOP outflanked with an argument that President Clinton is scheduled to unveil Friday in a speech to the American Academy of Sciences, backed by a Treasury Department study.

The argument is that by far the best way to prevent teenagers from smoking is to raise the price of tobacco beyond their willingness to pay.

The study bolsters the Administration case by showing that a $1.10 hike in the price of cigarettes will reduce youth smoking by 30 percent over five years and that an increase of $1.50 will reduce it by 60 percent over ten years.

As one White House aide put it, "Republicans will be hard-pressed to make the case that the best way to prevent teen smoking is through government regulation of advertising and sales.

"As people who believe in the power of markets and the laws of supply and demand, Republicans have to know that raising the price is the best way to alter behavior."

So, the Administration will say that its major purpose in raising tobacco prices is to protect teenagers, not to raise money for social programs. That's just a side benefit.

At the same time, the Administration is mobilizing potential beneficiaries of cigarette taxes — especially disease and children's advocacy groups — to lobby for higher taxes.

And the Administration is preparing to play political hardball with the GOP, making the claim in the fall elections that, after accepting

The Administration is preparing to play political hardball with the GOP, making the claim that *preparing to play political hardball with the GOP, making the claim that Republicans can't break the habit of doing Big Tobacco's bidding.*

tens of millions of dollars in campaign contributions from tobacco companies over the years, Republicans can't break the habit of doing Big Tobacco's bidding.

The contribution pattern continued last year, according to a study just released by the Center for Responsive Politics, which showed that tobacco giant Philip Morris gave the Republican National Committee a whopping $761,700 in 1997, $250,000 of it on Dec. 23.

The company also gave $228,000 to the National Republican Congressional Committee in 1997, but just $60,000 to the Democratic party through its Senatorial campaign committee.

To the extent that the GOP blocks tough anti-tobacco legislation, it is thus setting itself up for the charge that it is bought and paid for by tobacco companies — an increasingly unpopular special interest.

How the GOP will fight back isn't entirely clear. Besides charging that the Democrats are refusing bipartisan cooperation, McCain said he would invite state attorneys general to tell his committee that they oppose Democratic plans because they endanger the national tobacco settlement whereby the companies would have paid the states $385 billion over 25 years.

Another GOP stratagem, borrowed from Clinton's ploy to reserve budget surpluses for Social Security, is to propose that tobacco revenues be set aside strictly to keep the Medicare trust fund solvent.

That maneuver has yet to develop, however. Right now, it looks like President Clinton and his party will make the GOP choke on its close ties to Big Tobacco.

Gore Supports Democrats' Tough Antismoking Bill

By JEFFREY TAYLOR
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON – Vice President Al Gore expressed support for a tough Democratic antismoking bill but said the administration still wants to see a bipartisan approach to tobacco legislation.

"President Clinton strongly supports this bill and would gladly sign this bill if Congress puts it on his desk," Mr. Gore said at a news conference with 11 Democratic senators, including the bill's author, Kent Conrad of North Dakota.

The bill would raise cigarette prices a $1.50 a pack over three years while denying the tobacco industry most of the relief it has been seeking from a wave of suits.

Mr. Gore added that the Clinton administration is still seeking legislation that members of both parties will support. "I hope Republicans will join us on this bill or on others that meet the president's" criteria for fighting underage smoking.

The administration is closely watching a bipartisan bill now being written by Democratic Sens. Tom Harkin of Iowa and Bob Graham of Florida and Republican Sen. John Chafee of Rhode Island. The bill is expected to include some of the legal protections the industry wants, while taking steps to raise cigarette prices and otherwise curb underage smoking.

At a Democratic caucus Tuesday, some senators, such as John Kerry of Massachusetts, backed the Conrad plan, arguing that only uncompromising steps such as the ones it contains will be effective in reducing teen smoking. Mr. Harkin disagreed, saying that giving the industry some civil-liability protection would allow it to restrict its advertising and marketing and take other steps it agreed to in its proposed $368.5 billion settlement with state attorneys general and health groups.

Sens. Harkin and Chafee teamed up in September on a measure to spend $34 million to fight the sale of cigarettes to underage smokers. Yesterday, Sen. Chafee said the Conrad bill "isn't going to get the job done" because it doesn't enjoy support from any Republicans. "What is needed . . . is a bipartisan approach," he said.

The Clinton administration has said it can accept "reasonable" limits on the tobacco industry's legal liability in exchange for a strong antismoking bill. But it also says it would rather have a bill without the liability protections, if possible.

Sen. Conrad's bill contains no such protections. The senator said his bill would raise about $500 billion over 25 years, far more than the $368.5 billion envisioned in the proposed settlement. The bill would confirm the Food and Drug Administration's right to regulate nicotine in cigarettes, seek a two-thirds reduction in youth smoking and impose stiff penalties on the industry for failing to meet that goal, and sharply restrict tobacco marketing aimed at children in the U.S. and abroad.

U.S. Signing of Global-Warming Treaty Faces Delay of at Least a Year, Aide Says

By JOHN J. FIALKA
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON – The Clinton administration will delay signing the global-warming treaty for a year or more while it mounts a "full-court diplomatic press" to persuade major developing nations to adhere to the pact voluntarily, Undersecretary of State Stuart Eizenstat said.

Mr. Eizenstat, who led the U.S. team negotiating the treaty in Kyoto, Japan, last December, also told skeptical Republicans on the Senate Foreign Relations Committee yesterday that the administration will soon release its long-awaited economic analysis of the treaty. The study will show how the pact will create high-technology jobs for the U.S. by developing overseas markets for energy-efficient technology and will be "dramatically different" from industry studies showing a major loss of U.S. jobs, he said.

Mr. Eizenstat acknowledged that it will be a "real stretch" to line up enough support from China, India and other major developing countries within the next year to satisfy a Senate resolution requiring those nations to commit to the treaty's goals of reducing so-called greenhouse gas emissions as a condition for Senate ratification.

The treaty, which covers only industrial nations, opens for signatures next month. Beginning in 2008, the pact will require industrial nations to curb their emissions of carbon dioxide and five related gases that are believed to be warming the planet by trapping more of the sun's heat.

Calling the treaty "a work in progress," Mr. Eizenstat said the U.S. will also cooperate with industrial nations this year to work out rules for complying with the treaty and for international trading of emissions credits that weren't detailed in Kyoto.

Sen. Chuck Hagel (R., Neb.), the Senate's chief critic of the treaty, called for President Clinton to submit it to the Senate promptly. "Until this treaty is ratified by the Senate, there should be no action taken by the administration to implement [its] obligations," he said.

Both Democrats and Republicans on the panel agreed there isn't enough support in the Senate for ratification. But based on the panel's discussions, supporters' ranks appeared to have grown some since last summer, when 18 Democrats joined 47 Republicans to sponsor what was thought to be a treaty-stopping resolution.

One reason for the improvement was Mr. Eizenstat, who took over treaty talks at the last minute and whose skills were praised by Sen. Hagel and other treaty critics.

Mr. Eizenstat said that the emissions-trading plan will be one of the main tools to attract developing nations' support for the treaty. In emissions trading, a cap is imposed on the level of a pollutant, and major polluters are issued certificates that let them emit a portion of that cap. A polluter that cuts more than its share of pollution can sell excess certificates to polluters that exceed their share. The plan also will allow U.S. companies cheaper ways to reduce emissions by rewarding them for helping developing nations come up with more-efficient energy systems and better forestry practices.

THE WALL STREET JOURNAL
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POLITICS & POLICY

As States End Racial Preferences, Pressure Rises To Drop SAT to Maintain Minority Enrollment

By JUNE KRONHOLZ
Staff Reporter of THE WALL STREET JOURNAL

The SAT is a 1,600-point test of verbal and math reasoning that helps determine who packs for the Ivy League each fall and who commutes to community college. But that isn't all: Now, it is also at the center of the debate over affirmative action.

As court rulings and public opinion turn steadily against using racial preferences, colleges and universities are turning back just as steadily to grades and test scores to help them decide whom to admit. But the SAT holds little good news for minorities. Nationwide, African-Americans and Latinos score well below whites and Asian-Americans, and in a decade that gap hasn't narrowed.

So, to keep minority enrollment strong, Eugene Garcia, dean of the Graduate School of Education at the University of California, Berkeley, has proposed an idea: Drop the SAT. "Many of our kids aren't getting the best education, so they are scoring poorly" – and, he reasons, are then excluded from the nation's better universities.

But that argument sounds like a poor excuse to other people, who say the SAT is the only way to measure how students are doing from school to school and state to state. "The SAT is bringing us a message that we don't want to hear, that the system is broken," says David Murray, director of research at the Statistical Assessment Service, a nonprofit group that researches public policy. Instead of listening to it, Mr. Murray adds, "they want to shoot the messenger."

That may be, but after a federal court ruled last year that Texas universities couldn't consider race in their admissions decisions, the Texas legislature passed a law that admits the top 10% of the students from every high school in Texas to the state university they choose – whatever their SAT scores. The idea is that students from inner-city and largely black or Hispanic schools would have the same chance as white students from the suburbs.

While Texas is the first state to question the SAT, it isn't likely to be the only one, predicts the College Board, the nonprofit organization that administers the exam to about 1.2 million students every year. Last year, it says, bills to limit affirmative action were introduced in 11 state legislatures. Court challenges to affirmative action in college admissions are pending in at least three states. Moreover, there is an effort in Washington state to get an initiative outlawing racial preferences onto the ballot, and Ohio voters may be asked to vote on a consitutional amendment on affirmative action.

"Any time you start looking at affirmative-action issues in admissions, it puts the spotlight on the SAT," says Irene Spero, director of federal and state relations for the College Board. "If you want to maintain racial balance, eliminating the test appears to be an easy way."

Gretchen Rigol, who heads the SAT program at the College Board, blames the lagging performance by blacks and Latinos on the inferior high schools many attend and on academic "tracking" that channels them away from college-prep courses. That supports the claim of SAT opponents that the test is more a measure of family income and experience than of merit or ability – suburban students and kids whose parents went to college score better than inner-city children whose parents went only to high school.

But Ms. Rigol also blames the gap on the fact that minorities take fewer tough courses that would prepare them for the test. "This is not an issue of SATs," Ms. Rigol says. "It's an issue of academic preparation."

It is also an issue of who gets into the best universities, though, and that is the problem. The Statistical Assessment Service's Mr. Murray argues that the role of a university is "to generate and transmit knowledge," so the smartest and ablest students should be admitted – and what better measure is there than the SAT?

But test opponents say that universities have other roles, too, including developing future leaders and giving youngsters from hardscrabble backgrounds a better chance. Top universities often feed into professional and graduate schools, or into lucrative careers through old-boy networks. Those avenues would be closed to even more minority students if universities began to rely more heavily on the SAT.

Nowhere is that argument being made more urgently than in California, where about 80,000 Latinos graduated from high school last year, but only about 1,000 went to the University of California's select Berkeley or Los Angeles campuses. That number will drop further, to about 600 this year, when Proposition 209, the voter initiative that precludes racial preferences, is applied to undergraduate admissions for the first time, predicts the Latino Eligibility Task Force. The task force was set up by the University of California system to study minority enrollment, and among its recommendations was to drop the SAT.

As it is, a California high-school student who has a 3.3 grade point average and takes the SAT – whatever the score – is eligible to attend the nine-campus University of California system. But Berkeley's Mr. Garcia, who headed the Latino task force, says that just the requirement that students take the test excludes thousands of minorities who either never heard of it or just neglect to take it. Many can't afford the increasingly popular SAT-preparation courses, he says, adding: "Would you send your kid to take the SAT without an SAT-prep course?" (College Board President Donald M. Stewart, who is African-American, says his children never took a prep course.)

As a result, only 3.8% of California's Latino high-school graduates and 2.8% of blacks were eligible for the University of California last year. If the SAT requirement were dropped, Mr. Garcia says, that percentage would double. But the College Board says the pool of eligible whites and Asian-Americans would increase even more.

Moreover, to keep to California's master plan, which says that only the top 12.5% of students can attend the University of California system, the grade-point average would have to be raised to 3.65, says Keith Widaman, a psychology professor who heads the faculty committee that sets admission standards. Raise the grade-point average, he says, and Latino and black eligibility fall back where they were. Even so, says Mr. Widaman, the California Board of Regents, which has the final word on admissions, has taken an interest in the task-force proposal.

Meanwhile, the College Board, which administers 15% of all its tests in California, is warning of the dangers of substituting grades and class rank for the SAT: grade inflation; dumbed-down courses; and students who take easy classes as a way to keep their grades high, then enter college unprepared.

Texas A&M University in College Station, which in September will admit its first class under the state's so-called 10% solution, says it has accepted more minority students and hasn't seen much change in the quality of its students since it began the new selection system. But not everything is running smoothly, says Gary Engelgau, the admissions director: Already, some high schools are reporting that 25% of their students are in the top 10% of the class.

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THURSDAY, FEBRUARY 12, 1998

G.O.P. Plan Would Cut Capital Gains Holding Time to Year

By RICHARD W. STEVENSON

WASHINGTON, Feb. 11 — The chief Republican tax writer in the House said today that he would seek to reduce to a year, from 18 months, the holding period necessary for investments to qualify for the most favorable capital gains treatment.

Representative Bill Archer, the Texas Republican who is chairman of the Ways and Means Committee, said his proposal would make calculating capital gains taxes much simpler for millions of people who are currently grappling with a three-tier system of holding periods established by last year's tax bill.

Under last year's tax law, gains on investments held for under 12 months are taxed as ordinary income, gains on investments held from 12 to 18 months are taxed as ordinary income but only up to a maximum of 28 percent, and gains on investments held 18 months or more are taxed at a maximum of 20 percent, with the rate only 10 percent for people in the 15 percent income tax bracket.

Mr. Archer's proposal would go back to the previous two-tier structure, with investments held less than a year considered short term and subject to the tax on ordinary income, and gains on investments held a year or more subject to the 10 percent rate for people in the 15 percent income-tax bracket and 20 percent for everyone else.

Mr. Archer said he would propose that the change be effective for sales on or after Jan. 1, 1998. Mr. Archer said he would include the change in the tax legislation he plans to introduce in his committee this spring.

The three-tier system was imposed last year as part of a compromise between the Republican leadership, which was intent on reducing the top rate on capital gains, and the Clinton Administration, which was opposed, in part because the direct benefits would go largely to the wealthiest taxpayers.

In the end, the White House agreed to a reduction in the top rate from 28 percent to 20 percent but only in return for lengthening the holding period required to qualify for the lower rate on long-term investments.

Administration officials had also pushed for the 18-month holding period as a way to encourage and reward long-term investment and discourage speculation.

Officials at the Treasury Department gave Mr. Archer's proposal a cool response today, though they did not reject it out of hand. Mr. Clinton has already proposed his own tax initiatives for this year, including $24 billion of tax breaks and credits to help build more schools, hire more teachers and make child care more readily available.

The 18-month holding period for capital gains "was part of last year's bipartisan agreement and was part of the agreement for sound policy reasons," said Howard Schloss, the Treasury Department's spokesman. "Before changing that agreement Congress should focus on the targeted tax cuts proposed by the President."

Republicans have been complaining about the new holding period since they agreed to the deal, saying it would make preparing a tax return this year far more complicated for millions of investors as they calculated their tax liability on gains from the sale of stocks and other investments.

"For 16 million Americans, capital gains have become a capital headache," Mr. Archer said, referring to the number of taxpayers who report capital gains. "Eliminating the complicated 18-month holding period would be a major simplification of the tax code."

Mr. Archer's spokesman, Ari Fleischer, said the proposed change would not have a major effect on the amount of revenue flowing to the Government from the capital gains tax. He said the change would increase the revenues collected by the Federal Government by $100 million over the next five years and lead to a slight decrease in revenues over 10 years.

Simplifying the capital gains rules is just one of a host of tax issues that Republicans have brought up this year. With the Government likely to run budget surpluses in coming years, the Republican leadership is studying a host of tax-cutting proposals, including elimination of the so-called marriage penalty, which leaves some married taxpayers who file jointly paying a higher tax rate than if they were single and making the same incomes.

Gingrich Seeks I.M.F. Hearings

By The New York Times

WASHINGTON, Feb. 11 — Representative Newt Gingrich, the Speaker of the House, called today for a series of Congressional hearings into the International Monetary Fund to determine whether it is an institution that had "outlived its usefulness."

The Clinton Administration has been pressing Congress to approve $18 billion for the world body to bolster its reserves in the wake of the Asia financial crisis. But Mr. Gingrich said the request had to be "carefully looked at."

He cited recent criticisms from former government officials and economists, contending that the I.M.F. interferes with the workings of the free market. A raft of economists have also been highly critical of the fund's actions in Asia, arguing that it has bailed out the large lenders, mostly big banks, and imposed austerity rules that have placed the greatest burden on the working poor.

Mr. Gingrich called for "very significant hearings this spring" into the role of the I.M.F.

The New York Times
THURSDAY, FEBRUARY 12, 1998

Democrats Rally Behind Tough Antismoking Bill in Congress

By DAVID E. ROSENBAUM

WASHINGTON, Feb. 11 — Vice President Al Gore and a flock of Democratic lawmakers rallied today behind one of the toughest antismoking measures pending before Congress and left no doubt that they hoped to gain maximum political mileage against Republicans out of the issue.

"If they want to stand up against these programs," said Senator Frank R. Lautenberg, Democrat of New Jersey, "let them stand up and the American people."

The tobacco issue has Republicans divided and uncomfortable. After a two-day meeting of Republican representatives in Williamsburg, Va., Speaker Newt Gingrich said today that his troops favored a bill to curtail teen-age smoking, but he gave no specifics. Any money raised from a higher tobacco tax, he said, should be used for a tax cut elsewhere.

The Democratic bill, drafted under the direction of Senator Kent Conrad of North Dakota, would impose much stiffer restrictions on tobacco companies than the $368.5 billion settlement the industry and about 40 state attorneys general reached last June. It would raise 25 percent more money from the industry over the next five years than the President proposed this month in his budget.

The Clinton Administration has been careful not to latch on specifically to the Conrad measure or any other tobacco bill. The strategy is to force Republicans, who control Congress, to stick their necks out first.

Michael D. McCurry, the White House spokesman, said on Tuesday that the Conrad bill met all of Mr. Clinton's principles but that the White House was concerned that it did not have the bipartisan support needed to become law.

Mr. Gore made a similar point today. The President will "gladly sign this bill if Congress puts it on his desk," Mr. Gore said, but he added quickly that the Administration was after a "truly bipartisan bill."

Because of nearly solid Democratic support, the Conrad bill probably commands more support than any other single measure that has been introduced. But no Republicans are backing the bill, and without Republican votes, it has no chance.

Republican lawmakers had no unified response to the Conrad approach. But Senator John H. Chafee, Republican of Rhode Island, who has been working with some Democratic Senators on a bipartisan approach, issued a statement saying, "This is an issue that cries out for bipartisan leadership, and, frankly, a bill written solely by the Democratic Caucus is not going to get the job done."

Among the main elements of the Conrad bill are imposition of a fee, the equivalent of a tax, that would raise the price of a pack of cigarettes by $1.50 over the next three years; authority for the Food and Drug Administration to regulate tobacco as a drug; protection of the industry against lawsuits filed by states and other governments, but not suits brought by private citizens, and substantial financial penalties on tobacco companies if the proportion of young people smoking does not fall by two-thirds in 10 years. Tobacco farmers would receive $10 billion over the next five years as compensation for losses.

The bill would raise $82 billion over the next five years, as against $65.5 billion in the Clinton budget. The $1.50 increase in the price of a pack of cigarettes in the next three years is more than twice the 62-cent increase that the agreement between the tobacco companies and the states contemplates over five years.

Tobacco companies issued a statement saying the bill was seriously flawed and would unnecessarily raise taxes on 50 million adults.

Maine Lawmakers Reject Bill Allowing Doctor-Assisted Suicides

AUGUSTA, Me., Feb. 11 (AP) — Maine lawmakers today rejected a bill to legalize physician-assisted suicides.

The bill, rejected by the House 99 to 42, aroused passionate arguments on both sides of the issue, with lawmakers recalling relatives and friends who had suffered painful deaths and others invoking religious objections against the legislation.

This bill was similar to an Oregon law that allows terminally ill patients to request a prescription for medication to commit suicide. Before a prescription may be written, two doctors must determine the patient is mentally competent and not depressed.

Last year, South Dakota and Virginia enacted laws that prevent authorities from holding physicians liable for prescribing or administering medication to relieve pain even if the dosage hastens death.

Supporters of the measure said they may launch a petition campaign to put the proposal on the 1999 ballot.

"We'll decide that by May 1," former Representative Fred Richardson, a Portland Democrat, said after the House voted down the bill.

Foes of the bill were relieved after the vote.

"I think it was a good, solid defeat," said Marc Mutty, a spokesman for the Portland Roman Catholic Diocese.

The bill aroused passionate arguments, with lawmakers frequently recalling relatives and friends who suffered painful deaths or invoking religious objections against the legislation.

The bill's sponsor, Representative Joseph Brooks, a Winterport Democrat, reminded his colleagues of a January poll that said 71 percent of Maine residents supported doctor-assisted suicide.

"You know, when you think about the fact that that survey had a margin of error of plus or minus 4 percent, we are possibly talking about three-quarters of the people of the state who have asked for the law," Mr. Brooks said at the start of a nearly three-hour debate.

"That's three-quarters of the people who are our friends and our neighbors, our relatives and our constituents," Brooks said, recalling his own father's slow, painful death.

But Representative Richard Thompson, a Naples Democrat and chairman of the House Judiciary Committee, urged lawmakers to defeat the bill, which his committee voted against by a vote of 12-1.

"Who are we to take God's job?" said Representative Rosaire Sirois, a Caribou Democrat, who, like Mr. Brooks, is a Catholic. "This is God's department. This is one of the Ten Commandments, 'Thou shalt not kill.' This is killing."

Last month, a Strategic Marketing Services poll of 450 citizens said 71 percent of respondents believe terminally ill, mentally competent patients should have the right to have a physician help them die. That total was up 7 percentage points from a poll done a year ago.

The poll had a margin of error of plus or minus 4.6 percentage points.

Mr. Brooks said the defeat "simply delays the process."

"This will become law in a couple of years," Mr. Brooks said. "How it will become law remains to be seen. Do we decide at some point to take it out to initiative and have petitions signed and all that? We might."

Although he said he would prefer to work within the legislative process and has not ruled out another bill, Mr. Brooks said he could count on a network of about 700 people "who are absolutely committed to this and they are willing to go out and work for us and circulate petitions."

The New York Times

THURSDAY, FEBRUARY 12, 1998

Gore-backed tobacco bill has no chance, GOP says

By Samuel Goldreich
THE WASHINGTON TIMES

Vice President Al Gore yesterday responded to criticism that the White House is ducking the fight against teenage smoking. He endorsed a Democratic bill that Republicans and the tobacco industry say has no chance of getting through Congress.

He quickly left a Capitol Hill press conference after announcing the legislation, without taking questions about what the administration is willing to do to meet its goal of passing a comprehensive tobacco-control package this year.

The Democratic plan, drafted by a tobacco task force headed by Sen. Kent Conrad, North Dakota Democrat, would raise $500 billion during the next 25 years through a $1.50-per-pack "health-fee" tax on cigarettes.

It would grant the tobacco industry none of the legal protections it seeks, under a proposed health lawsuit settlement negotiated last June with a group of state attorneys general, who have sued to recover the costs of treating smoking-related illnesses.

"President Clinton strongly supports this bill and would gladly sign it if Congress puts it on his desk," Mr. Gore said in a room full of schoolchildren and anti-smoking activists.

He challenged Republicans to support the legislation or draft their own plan to meet the president's minimum requirements for support, including a boost in cigarette prices to discourage

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teen-age smokers, preservation of federal tobacco regulation, a ban on marketing that targets children, programs to fight nicotine addiction and protection of tobacco-dependent farmers and communities.

However, he made no mention of whether the administration would accept limits on tobacco-industry liability as a price for passing a comprehensive bill to reduce teen smoking. Several administration officials have said that might be necessary, but critics in both parties say they need a clear endorsement from the White House.

Mr. Conrad's bill also includes a "look-back" provision that would impose penalties of up to 50 cents per pack on cigarette companies if teen smoking rates don't decline by at least 67 percent over 10 years.

"For too long, tobacco companies have waged war on our kids," Mr. Conrad said. "It's time to counterattack."

But Republicans have dismissed the Democratic proposal as a one-sided plan that makes unrealistic demands on the tobacco industry.

Sen. John McCain, Arizona Republican, who proposed a bipartisan bill in December based on the tobacco-industry settlement, said he was disappointed that Mr. Clinton has embraced the Democratic plan after saying for months that he seeks a bipartisan tobacco proposal.

"It's troubling that it seems this is an effort to politicize the issue instead of drafting a bill that's workable," he said.

Mr. McCain now is working on an alternative plan in cooperation with Sen. Slade Gorton, Washington Republican, and Democrats Ernest F. Hollings of South Carolina and John B. Breaux of Louisiana.

Sen. John H. Chafee, Rhode Island Republican, said that Mr. Gore's support for the Democratic bill threatens any chance of quick action on tobacco legislation.

"The introduction of this kind of bill just further confirms the conventional wisdom that comprehensive tobacco legislation is dead for the year, and that would be a mistake," he said.

Mr. Chafee is working on drafting a bill with Democratic senators Tom Harkin of Iowa and Bob Graham of Florida.

The group also wants to strictly limit tobacco marketing that could target children, and to raise money for anti-smoking and health programs. But the senators are working on the premise that no bill will pass without granting the tobacco industry some legal immunity.

Republicans hope they can reach a unified position on tobacco by March 16, the deadline Senate Majority Whip Don Nickles, Oklahoma Republican, set for committee chairmen to submit proposals.

The nation's major tobacco makers rejected Mr. Conrad's plan, saying that it would eliminate the incentives the industry needs to accept strict regulations.

Philip Morris Inc., R.J. Reynolds Tobacco Co., Brown & Williamson Tobacco Corp., Lorillard Tobacco Company and United States Tobacco Co. issued a statement saying, "Many of the advertising and marketing restrictions and the no-fault look-back surcharges contained in the resolution would be unconstitutional, and therefore, could not be implemented unless the industry agreed to them."

But Mr. Gore hinted at how easy it would be to stir further public resentment against the tobacco if it stands in the way of legislation this year.

"Let me see if I understand that correctly," Mr. Gore said. "They're saying that unless legislation is conformed to the liking of the companies, they will keep on targeting children."

The Washington Times
THURSDAY, FEBRUARY 12, 1998

Talking It Over

By Hillary Rodham Clinton

Home visitation helps fledgling mothers cope

My daughter, Chelsea, turns 18 this month. How vividly I remember the overwhelming feelings of love and responsibility as she lay in my arms 18 years ago. During the nine months of pregnancy, I had studied and read about parenting, but nothing prepared me for the sheer miracle of having a child.

Despite my efforts, I soon discovered that grasping child-rearing concepts in the abstract and knowing what to do with the baby in your hands are two very different things. Babies don't come with instructions. Even the most fortunate among us need some calm reassurance and a little guidance to get through those scary firsts — breast feeding, diaper changing, bathing that slippery little creature. But what about parents who have known only poverty or neglect? What about parents without a supportive community? And what about those who have grown up trapped in cycles of abuse and low expectations?

When families lived closer together, it was easier for relatives to pitch in during the early months of a newborn's life. When women worked primarily in the home, they provided a neighborhood support system to lend a hand to new mothers. But now, relatives and neighbors aren't as readily available, and programs to help fledgling parents are few and far between.

This week, I visited the home of a single mother in Alexandria. Depressed and scared when she became pregnant, Felicia was referred to a program called Healthy Families Alexandria, which was launched in 1993 when the area began to experience some disturbing trends, including increasingly high rates of child poverty and abuse, teen pregnancy, low birth-weight babies and vaccine-preventable diseases.

At the heart of the program is the family support worker, a trained professional or paraprofessional who visits the new mother on a regular basis, both before and after birth, to offer education, support and a patient ear. Home visitors also help with critical issues such as ensuring that the child receives regular medical attention and nutrition and that the parent is provided with referrals to peer-group activities, transportation, housing, child care, employment and medical care.

With the support of her home visitor, Felicia is now the proud and confident mother of Dominico, a gurgling, smiling and healthy 3-month-old. On the day I visited, Felicia's home visitor was checking the baby's development, offering some age-appropriate toys and answering Felicia's questions and concerns. From her vantage point in the home, the visitor is able both to evaluate the child's growth and development, and to assess whether the child's surroundings are suitable and nurturing. When I asked Felicia if she thought home visits would help others, she said, "Oh, yes, I feel so rich. Having Lynn really helps."

Equipping parents to be the best they can be is critical to the future of our country. Long-term studies tell us that home-visitation programs can help. Researchers have just completed a 15-year study of 324 first-time mothers who participated in the Prenatal and Infancy Nurse Home Visitation Program in Elmira, N.Y. The results are dramatic: significant reductions in government assistance, child abuse, unintended second pregnancies, substance abuse and child hospitalizations. And now that these children are teenagers, there's evidence that this program can reduce incidence of juvenile crime. The costs of the program were fully recovered by the time the children were 4 years old, thanks to less use of government services and fewer subsequent pregnancies.

I believe that one of our greatest challenges is to identify programs like this that work and make them more widely available to families who would benefit from them. This week, I spent some time with the lead researcher on the Elmira study, Dr. David Olds. We agreed that we must invest more in research, replicate proven models and make existing programs better.

Because children's experiences in the earliest years of life are central to their healthy development, the president has proposed increasing our investment in activities that promote early learning and improve the quality of child care in our country. A major element of the president's child care proposal is the Early Learning Fund, which will provide challenge grants to communities that promote early learning, including home-visiting programs.

I don't think I know a mother who hasn't sought help and support in those first months and years after having a child. Most of us have help available, but sadly, too many don't. I met one young woman who told me that, without the advice of her home visitor, she would never have known that talking and reading actually improve the development of her newborn daughter's brain. Raising healthy children is the most important and the hardest job any of us will ever have. Home-visitation programs can make that job easier. And that means healthier children, healthier families and healthier communities.

The Washington Times
THURSDAY, FEBRUARY 12, 1998

Today's debate: **TELLING TRUTH ABOUT TOBACCO**

If tobacco execs lied under oath, prosecute them

OUR VIEW **Recently released documents cast heavy doubt on executives' 1994 congressional testimony.**

By John Duricka, AP

1994 testimony: Tobacco execs Robert Sprinkle III, American Tobacco.; Donald Johnston, American; Thomas Sandefur Jr., Brown & Williamson; Edward Horrigan Jr., Liggett; Andrew Tisch, Lorillard; Joseph Taddeo, U.S. Tobacco; James Johnston, RJR; and William Campbell, Philip Morris.

"Cigarette smoking is not addictive." — William Campbell, CEO of Philip Morris, in testimony April 14, 1994, before the House Subcommittee on Health and the Environment.

"Under some definitions cigarette smoking is addictive." — Geoffrey Bible, CEO of Philip Morris, in testimony Jan. 29, 1998, before the House Commerce Committee.

With all the Washington talk about perjury of late, it is time to focus on some of the most dangerous statements told under oath — those by tobacco executives.

Four years ago, Big Tobacco's seven top CEOs appeared before a congressional subcommittee and swore that cigarettes are no more addictive than Twinkies.

A slew of secret industry documents released in recent weeks shows those statements weren't true. And evidence is mounting that the CEOs knew it.

Lying under oath and knowing it are the elements required to prove perjury — a crime carrying the threat of five years in prison and $2,000 fines. More than three years after the Justice Department quietly began a criminal investigation of tobacco companies, investigators now have thousands of industry documents contradicting the CEOs' testimony.

The most obvious falsehoods concern questions about whether cigarettes are addictive. When asked under oath, four major tobacco companies have flipped their answers from no to yes since 1994. And there are other sworn statements that don't pass the truth test. Among them:

"We do not market to children." — James Johnston, CEO of R.J. Reynolds, to House subcommittee April 14, 1994.

Oh, really? Secret R.J. Reynolds documents released last month by Rep. Henry Waxman show that since 1974 the company has been trying to attract smokers as young as 13. It aimed Joe Camel ads at kids and pursued a teen market because "they represent tomorrow's cigarette business."

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Reps. Marty Meehan and Waxman have been pushing the Justice Department to pursue perjury prosecutions against tobacco CEOs. The threat of jail time has scared some sense into tobacco honchos. In recent months, industry executives testifying in state lawsuits have begun pleading the Fifth when asked what the industry knows about the health dangers of smoking. And there's talk they'll revive earlier attempts to get immunity as part of the proposed national tobacco settlement.

That shouldn't happen. The simple truth is that secrets the executives held and lies they told encouraged people to smoke and ultimately to die. Since their first congressional appearance alone, more than 4 million Americans have started smoking.

A year remains before the statute of limitations expires. If the executives committed perjury, they should be prosecuted.

USA TODAY · THURSDAY, FEBRUARY 12, 1998

No proof of any perjury

OPPOSING VIEW **Lust for the tobacco settlement billions is behind these spurious charges.**

By Robert Levy

Here's what's really driving these perjury allegations: There's $370 billion on the table, in return for which tobacco companies want partial immunity from litigation.

The question, then, is how does government get its hands on that loot without kowtowing to a pariah industry that government itself still subsidizes?

The easiest way is to whip up public sentiment, demonize the industry, threaten tobacco executives with criminal prosecution and see if they can be intimidated into relaxing their immunity demands.

After all, without the industry's consent, the global tobacco settlement simply won't fly. It's unconstitutional.

Just what did tobacco executives "lie" about? For starters, they claimed that cigarettes aren't addictive. Well, 45 million people have stopped smoking — roughly the same number as still smoke.

Attorneys for Florida admitted in a 1995 court filing that "whether nicotine is addictive or not is a gray area. You have as many in the medical field that say it is as that say it isn't." Or listen to industry archcritic Richard Kluger: "Nor could anyone say for certain how much of a daily dose served to induce addiction; tolerances differed from person to person."

Then there's the question of whether tobacco companies "manipulated" nicotine content. Does anyone have the foggiest idea what it means to "manipulate"? In the worst possible sense, to "manipulate" is to "manage deceitfully." But how could the "manipulation" be deceitful when industry ads have reported nicotine and tar content by brand since 1970?

Finally, there's the matter of targeting underage smokers. The industry says that research on kids was for planning, not marketing, and that statements should be construed in light of societal attitudes prevailing at the time.

How could Minnesota Attorney General "Skip" Humphrey, a zealous anti-tobacco partisan, disagree? In 1973 he sponsored a bill that set aside smoking areas for high school kids. Today he says, "That was a different time, a different era."

A tobacco company president, like any other president, should not knowingly lie under oath. But there is no proof tobacco CEOs committed perjury.

Robert Levy is a senior fellow in constitutional studies at the Cato Institute.

Thrills, chills . . . yawns

Early on at Nagano, speedskaters using hinged blades and air strips cut a staggering eight seconds off the world record in the 5,000 meters, reminding everyone that the intelligence of technology can be as important as the discipline of training.

Speedskater Hiroyasu Shimizu set a new Olympic record in the 500 meters, too. Good for him. The host country deserves some reward for all the second-guessing it suffers, and Japan's greatest hope — that Masahiko Harada would win a gold medal for ski jumping — was dashed when he launched short. He choked in Lillehammer in 1994, too, and is rapidly turning into a Japanese Dan Jansen, the great American skater who lost seven competitions in three Olympics before finally winning the 1,000 in 1994. Every nation needs one.

More thrills? We have snowboarding and women's hockey. We have German luge racer Silke Kraushaar beating teammate Barbara Niedernhuber by .002 seconds, equal to less than half an inch over three miles. *Gott im Himmel,* now *that's* a race. And skiers Jonny Moseley and Picabo Street (who by name, attitude and fortitude is a perfect expression of Yankee athletics) have won the first American gold medals.

So how come the Games seem dull? Why are we firing our network channel-changers like Uzis? Largely because CBS has loaded prime time with featurettes, commercials and skating workouts. Highlights from other venues appear only randomly, and the result is that the most exciting sports news in the world (not counting America's stunning 1-0 upset of Brazil in Gold Cup soccer action) has been rendered boring. Ready. Aim. *Click. Click. Click.*

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USA TODAY · THURSDAY, FEBRUARY 12, 1998

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Clinton Fails To Move Up Jones Trial Date

By BRIAN DUFFY
And DAVID ROGERS
Staff Reporters of THE WALL STREET JOURNAL

WASHINGTON – President Clinton's attorneys—pressing to stop a flood of gag-order violations—failed in a bid to move up the trial of the sexual-harassment lawsuit filed against him by Paula Jones.

A federal judge in Little Rock, Ark., rejected the request by Mr. Clinton, citing requests by Ms. Jones's attorneys to question more potential witnesses.

The ruling that the trial would begin May 27, as scheduled, was a setback for Mr. Clinton, whose attorneys had argued that the president was being "tarred" by "gossip, innuendo and hearsay" reported by the news media despite a gag order imposed by the judge.

Boost From House Democrats

But President Clinton received a boost from an audience that isn't always his best: House Democrats. He received a warm reception at a closed-door party retreat in Virginia, his first such private caucus with Democratic lawmakers since the White House was thrown into turmoil by the recent Monica Lewinsky sex allegations.

The stated purpose was to promote his legislative agenda, but support in the House is pivotal if the administration is to quash speculation now that Mr. Clinton could be the target of impeachment proceedings in the chamber. House Democrats have long resented what they see as Mr. Clinton's lack of loyalty to their own political struggles.

"He left feeling very positive," said Rep. Vic Fazio of California, the caucus chairman. The White House has scheduled a second, more public session tomorrow on Capitol Hill with the joint House and Senate Democratic leadership.

Warm Welcome

Rep. John Dingell of Michigan, the dean among House Democrats, set the tone with a warm welcome to Mr. Clinton, and Rep. Maxine Waters of California told the president that she and fellow members of the Black Caucus had a historic sympathy for those who felt railroaded by the justice system.

Even among Democrats who have been more wary of Mr. Clinton, the support was striking. No member directly questioned Mr. Clinton about the substance of the Lewinsky matter, but there was a shared desire to focus first on the party's legislative agenda. "Can it be a big issue? You better believe it," said Rep. Charles Stenholm of Texas. "But until the facts are in, it's an inside-the-beltway story."

Still, the ruling in Little Rock by U.S. District Judge Susan Webber Wright could benefit Independent Counsel Kenneth Starr. Should Ms. Jones's lawyers discover new allegations of improper sexual behavior by Mr. Clinton, Mr. Starr could subpoena witnesses to testify about them to a federal grand jury.

Judge Wright, who will preside in the Jones case, has prohibited Ms. Jones's attorneys from presenting allegations from Ms. Lewinsky at trial. But that ruling wouldn't apply to other potential witnesses, if they alleged that Mr. Clinton made unwanted sexual advances to them.

White House Doesn't Plan to Support Tobacco Bill Authored by a Democrat

By JEFFREY TAYLOR
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON – The White House doesn't plan to endorse a new Democratic tobacco bill because it isn't likely to garner the bipartisan support needed for passage.

Sen. Kent Conrad (D., N.D.) has crafted legislation that would raise cigarette prices $1.50 a pack over three years while denying the tobacco industry most of the relief it has been seeking from a wave of lawsuits. But Senate Republicans said that by scrapping the carefully negotiated civil-liability protections in the industry's proposed $368.5 billion national settlement, the Conrad bill risks losing lawmakers' support.

While Vice President Al Gore will appear with Mr. Conrad and other Democratic senators today to "say some supportive things" about the bill, "realistically speaking we are going to have to have a bipartisan approach," White House spokesman Mike McCurry said.

Republicans criticized the proposal as overly partisan, and neither Republicans nor many moderate Democrats give it much chance of passage. Commerce Committee Chairman John McCain (R., Ariz.) said the bill represents an effort by Democrats "to politicize this issue rather than working in a true bipartisan spirit to get a workable bill."

Judiciary Committee Chairman Orrin Hatch (R., Utah) scoffed at the notion that tobacco executives would agree to the bill's restrictions on advertising if Congress strips away the liability protections that were the industry's main reason for coming to the bargaining table. "If you don't do away with class-action lawsuits and provide other protections, what's the incentive of the tobacco industry to settle?" he said.

Some Democratic senators, including ones from tobacco-growing states, raised objections to the bill in a Democratic caucus yesterday. The bill would provide $10 billion for tobacco farmers over five years, far less than some Republican proposals. And while antitobacco senators such as Frank Lautenberg (D., N.J.) and Richard Durbin (D., Ill.) are expected to co-sponsor the Conrad legislation, it may be too extreme for other Democrats.

Only last week, a Justice Department official, David Ogden, said the administration could support some "reasonable" liability protections for the industry to get a comprehensive tobacco bill that meets President Clinton's criteria for fighting underage smoking.

Testifying on Capitol Hill again yesterday before Mr. Hatch's Judiciary Committee, Mr. Ogden said the administration "is not at this time endorsing [the Conrad bill] to the exclusion of other serious efforts" and added: "What we want above all and believe is necessary is a bipartisan effort to try to craft the best possible legislation." White House domestic-policy adviser Bruce Reed underlined the point, saying that while the administration likes the Conrad bill, "We'd like to see [tobacco] bills we can sign from Republicans and Democrats alike."

THE WALL STREET JOURNAL
WEDNESDAY, FEBRUARY 11, 1998

Tobacco — Clips

THE WALL STREET JOURNAL
THURSDAY, FEBRUARY 12, 1998

A Mark Is Laid Down on Tobacco

Politics & People

By Albert R. Hunt

Tobacco legislation, languishing for months, is starting to move in Congress and the key to success may be an unlikely duo: President Clinton and Rep. Tom Bliley, the conservative Republican from Richmond, Va.

The catalyst is the sweeping proposal offered yesterday by Sen. Kent Conrad (D., N.D.). It is significantly tougher than the deal cut last year by the tobacco companies and the states' attorneys general; it would cost tobacco about $200 billion more over 25 years, impose tougher regulations, crack down some on exports, and provide immunity only from lawsuits by the states and the federal government.

It's a sign of the political freefall facing tobacco—with revelations of one duplicitous and dastardly act after another—that Sen. Conrad's bill is now the marker for serious consideration. Although only unveiled this week, the Conrad bill already has more than two dozen Senate co-sponsors, ranging from liberals like Ted Kennedy (D., Mass.) to centrists like Bob Kerrey (D., Neb.) and John Breaux (D., La.). Predictably, Republicans assaulted it as partisan; yet leading GOP lawmakers, including a few committee chairmen, have talked to Sen. Conrad in recent days about an accord. The best news for the North Dakota Democrat may be that his bill was blasted by the tobacco industry.

The White House has postured for months on tobacco but yesterday, Vice President Gore gave the administration's blessing to the Conrad bill. The president will embrace it in a speech tomorrow, when he insists that a comprehensive bill, rather than a piecemeal effort, is essential.

The Clinton role is critical. He must explicitly warn Republicans of the political price of sidetracking legislation. He also has to provide cover for compromises and deliver tobacco critics like former Food and Drug Administration Commissioner David Kessler. He's well positioned to do this today; if his presidency starts to unravel, all bets are off.

On Capitol Hill, some Democrats argue it would be better as an issue in November. Some Republican leaders, beholden to tobacco money, hope the politics and complexity will make it easier to sabotage any deal. Events, however, may overtake both wishes.

Tom Bliley Jr.

For all the attention focused on the Senate and GOP congressional leaders, it's House Commerce Committee Chairman Bliley who could play the instrumental role. Long considered the congressman from Philip Morris, the 66-year-old conservative Republican is indignant over the industry's duplicity; some feel he sees a resolution as his legacy.

Any deal would be put together by Chairman Bliley and Rep. Henry Waxman (D., Calif.), perhaps the most resourceful legislator in Congress. This odd couple has produced results before; in 1996, they fashioned a measure on pesticides, breaking an 18-year impasse. Tobacco will be a tougher issue, but today these two legislative heavyweights are beginning serious conversations.

The Conrad initiative improves the deal made last summer in important respects. It boosts cigarette prices by $1.50 a pack over the next three years; price, economists agree, is the most effective way to curb teenage smoking. Ninety percent of smoking begins during those years, with half starting by age 15. There also are much tougher penalties if companies don't reduce teen smoking by 67% over the next decade.

Whereas the attorneys general would have given the companies generous immunity from lawsuits, this bill strikes a middle ground: Governmental suits are basically barred, but individual suits and class actions would still be permissible. Tobacco will scream about that, but they're bluffing; the merchants of death are so unpopular that even conservatives like House Whip Tom DeLay (R., Texas) object to broad grants of immunity.

The Conrad bill would also give the FDA tougher regulatory authority. And to stem the inevitable tobacco strategy of compensating for any market loss at home by peddling to young smokers abroad, this legislation would require health warning labels on tobacco exports and require that companies not target children in foreign markets. (Separately, the Clinton administration is drafting an executive order forbidding U.S. Embassies from promoting tobacco exports.)

Over the next five years, Sen. Conrad's bill would raise $82 billion, or $16.5 billion more than Mr. Clinton's budget assumes. He would give $12 billion to the states in unrestricted grants; $22 billion to the states for child care, children's health insurance and education initiatives; $17 billion for other health research; $10 billion to tobacco farmers; $13 billion for antismoking programs; $3 billion for Medicare; and $5 billion for Social Security.

That distribution offends everyone: Social Security is merely a political sop. Conservatives object to the funds to states for unrelated matters like education.

But Republican demands to use tobacco proceeds for tax cuts won't fly with the public; last month's Wall Street Journal/NBC News survey showed that fewer than 10% of Americans prefer that. Conversely, most of the initiatives in the Conrad bill are inherently logical and popular. The money he would give to tobacco farmers is almost as generous as that proposed by tobacco's champion, Sen. Jesse Helms (R., N.C.). Money for biomedical research is a natural repository and very popular; the January Journal/NBC poll shows that the public, by a 64% to 22% margin, favors doubling the National Institutes of Health's $13 billion research budget over the next five years.

Kent Conrad

To be sure, some significant compromises will be necessary from this legislation. Liberals will try to toughen environmental provisions. But the key negotiations will be with Republicans. One sure bet: added money for antidrug programs.

And the legal immunity issue already is generating lots of heat. Senators as diverse as conservative Orrin Hatch (R., Utah), liberal Tom Harkin (D., Iowa) and moderates John Chaffe (R., R.I.) and Bob Graham (D., Fla.) are working together on possible compromises. But blanket immunity for tobacco is a nonstarter. Likewise, enhanced FDA regulatory authority, whatever the GOP's theological problems, is sure to be part of any legislation that is enacted into law.

Tobacco has hired a battery of expensive lobbyists to reshape or kill any legislation it doesn't like. But they'll find that some previous puppets have turned nervous. One recent private GOP poll found that a remarkable 57% would be "strongly opposed" to voting for any candidate who accepts tobacco money.

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USA TODAY · THURSDAY, FEBRUARY 12, 1998

Gore-backed tobacco bill has no chance, GOP says

By Samuel Goldreich
THE WASHINGTON TIMES

Vice President Al Gore yesterday responded to criticism that the White House is ducking the fight against teen-age smoking. He endorsed a Democratic bill that Republicans and the tobacco industry say has no chance of getting through Congress.

He quickly left a Capitol Hill press conference after announcing the legislation, without taking questions about what the administration is willing to do to meet its goal of passing a comprehensive tobacco-control package this year.

The Democratic plan, drafted by a tobacco task force headed by Sen. Kent Conrad, North Dakota Democrat, would raise $500 billion during the next 25 years through a $1.50-per-pack "health-fee" tax on cigarettes.

It would grant the tobacco industry none of the legal protections it seeks, under a proposed health lawsuit settlement negotiated last June with a group of state attorneys general, who have sued to recover the costs of treating smoking-related illnesses.

"President Clinton strongly supports this bill and would gladly sign it if Congress puts it on his desk," Mr. Gore said in a room full of schoolchildren and anti-smoking activists.

He challenged Republicans to support the legislation or draft their own plan to meet the president's minimum requirements for support, including a boost in cigarette prices to discourage

see TOBACCO, page B12

TOBACCO

From page B8

teen-age smokers, preservation of federal tobacco regulation, a ban on marketing that targets children, programs to fight nicotine addiction and protection of tobacco-dependent farmers and communities.

However, he made no mention of whether the administration would accept limits on tobacco-industry liability as a price for passing a comprehensive bill to reduce teen smoking. Several administration officials have said that might be necessary, but critics in both parties say they need a clear endorsement from the White House.

Mr. Conrad's bill also includes a "look-back" provision that would impose penalties of up to 50 cents per pack on cigarette companies if teen smoking rates don't decline by at least 67 percent over 10 years.

"For too long, tobacco companies have waged war on our kids," Mr. Conrad said. "It's time to counterattack."

But Republicans have dismissed the Democratic proposal as a one-sided plan that makes unrealistic demands on the tobacco industry.

Sen. John McCain, Arizona Republican, who proposed a bipartisan bill in December based on the tobacco-industry settlement, said he was disappointed that Mr. Clinton has embraced the Democratic plan after saying for months that he seeks a bipartisan tobacco proposal.

"It's troubling that it seems this is an effort to politicize the issue instead of drafting a bill that's workable," he said.

Mr. McCain now is working on an alternative plan in cooperation with Sen. Slade Gorton, Washington Republican, and Democrats Ernest F. Hollings of South Carolina and John B. Breaux of Louisiana.

Sen. John H. Chafee, Rhode Island Republican, said that Mr. Gore's support for the Democratic bill threatens any chance of quick action on tobacco legislation.

"The introduction of this kind of bill just further confirms the conventional wisdom that comprehensive tobacco legislation is dead for the year, and that would be a mistake," he said.

Mr. Chafee is working on drafting a bill with Democratic senators Tom Harkin of Iowa and Bob Graham of Florida.

The group also wants to strictly limit tobacco marketing that could target children, and to raise money for anti-smoking and health programs. But the senators are working on the premise that no bill will pass without granting the tobacco industry some legal immunity.

Republicans hope they can reach a unified position on tobacco by March 16, the deadline Senate Majority Whip Don Nickles, Oklahoma Republican, set for committee chairmen to submit proposals.

The nation's major tobacco makers rejected Mr. Conrad's plan, saying that it would eliminate the incentives the industry needs to accept strict regulations.

Philip Morris Inc., R.J. Reynolds Tobacco Co., Brown & Williamson Tobacco Corp., Lorillard Tobacco Company and United States Tobacco Co. issued a statement saying, "Many of the advertising and marketing restrictions and the no-fault look-back surcharges contained in the resolution would be unconstitutional, and therefore, could not be implemented unless the industry agreed to them."

But Mr. Gore hinted at how easy it would be to stir further public resentment against the tobacco if it stands in the way of legislation this year.

"Let me see if I understand that correctly," Mr. Gore said. "They're saying that unless legislation is conformed to the liking of the companies, they will keep on targeting children."

The Washington Times
THURSDAY, FEBRUARY 12, 1998

Democrats Rally Behind Tough Antismoking Bill in Congress

By DAVID E. ROSENBAUM

WASHINGTON, Feb. 11 — Vice President Al Gore and a flock of De :ratic lawmakers rallied today behind one of the toughest antismoking measures pending before Congress and left no doubt that they hoped to gain maximum political mileage against Republicans out of the issue.

"If they want to stand up against programs," said Senator Frank R. Lautenberg, Democrat of New Jersey, "let them stand up and tell the American people."

The tobacco issue has Republicans divided and uncomfortable. After a two-day meeting of Republican representatives in Williamsburg, Va., Speaker Newt Gingrich said today that his troops favored a bill to curtail teen-age smoking, but he gave no specifics. Any money raised from a higher tobacco tax, he said, should be used for a tax cut elsewhere.

The Democratic bill, drafted under the direction of Senator Kent Conrad of North Dakota, would impose much stiffer restrictions on tobacco companies than the $368.5 billion settlement the industry and about 40 state attorneys general reached last June. It would raise 25 percent more money from the industry over the next five years than the President proposed this month in his budget.

The Clinton Administration has been careful not to latch on specifically to the Conrad measure or any other tobacco bill. The strategy is to force Republicans, who control Congress, to stick their necks out first.

Michael D. McCurry, the White House spokesman, said on Tuesday that the Conrad bill met all of Mr. Clinton's principles but that the White House was concerned that it did not have the bipartisan support needed to become law.

Mr. Gore made a similar point today. The President will "gladly sign this bill if Congress puts it on his desk," Mr. Gore said, but he added quickly that the Administration was after a "truly bipartisan bill."

Because of nearly solid Democratic support, the Conrad bill probably commands more support than any other single measure that has been introduced. But no Republicans are backing the bill, and without Republican votes, it has no chance.

Republican lawmakers had no unified response to the Conrad approach. But Senator John H. Chafee, Republican of Rhode Island, who has been working with some Democratic Senators on a bipartisan approach, issued a statement saying, "This is an issue that cries out for bipartisan leadership, and, frankly, a bill written solely by the Democratic Caucus is not going to get the job done."

Among the main elements of the Conrad bill are imposition of a fee, the equivalent of a tax, that would raise the price of a pack of cigarettes by $1.50 over the next three years; authority for the Food and Drug Administration to regulate tobacco as a drug; protection of the industry against lawsuits filed by states and other governments, but not suits brought by private citizens, and substantial financial penalties on tobacco companies if the proportion of young people smoking does not fall by two-thirds in 10 years. Tobacco farmers would receive $10 billion over the next five years as compensation for losses.

The bill would raise $82 billion over the next five years, as against $65.5 billion in the Clinton budget. The $1.50 increase in the price of a pack of cigarettes in the next three years is more than twice the 62-cent increase that the agreement between the tobacco companies and the states contemplates over five years.

Tobacco companies issued a statement saying the bill was seriously flawed and would unnecessarily raise taxes on 50 million adults.

Maine Lawmakers Reject Bill Allowing Doctor-Assisted Suicides

AUGUSTA, Me., Feb. 11 (AP) — Maine lawmakers today rejected a bill to legalize physician-assisted suicides.

The bill, rejected by the House 99 to 42, aroused passionate arguments on both sides of the issue, with lawmakers recalling relatives and friends who had suffered painful deaths and others invoking religious objections against the legislation.

This bill was similar to an Oregon law that allows terminally ill patients to request a prescription for medication to commit suicide. Before a prescription may be written, two doctors must determine the patient is mentally competent and not depressed.

Last year, South Dakota and Virginia enacted laws that prevent authorities from holding physicians liable for prescribing or administering medication to relieve pain even if the dosage hastens death.

Supporters of the measure said they may launch a petition campaign to put the proposal on the 1999 ballot.

"We'll decide that by May 1," former Representative Fred Richardson, a Portland Democrat, said after the House voted down the bill.

Foes of the bill were relieved after the vote.

"I think it was a good, solid defeat," said Marc Mutty, a spokesman for the Portland Roman Catholic Diocese.

The bill aroused passionate arguments, with lawmakers frequently recalling relatives and friends who suffered painful deaths or invoking religious objections against the legislation.

The bill's sponsor, Representative Joseph Brooks, a Winterport Democrat, reminded his colleagues of a January poll that said 71 percent of Maine residents supported doctor-assisted suicide.

"You know, when you think about the fact that that survey had a margin of error of plus or minus 4 percent, we are possibly talking about three-quarters of the people of the state who have asked for the law," Mr. Brooks said at the start of a nearly three-hour debate.

"That's three-quarters of the people who are our friends and our neighbors, our relatives and our constituents," Brooks said, recalling his own father's slow, painful death.

But Representative Richard Thompson, a Naples Democrat and chairman of the House Judiciary Committee, urged lawmakers to defeat the bill, which his committee voted against by a vote of 12-1.

"Who are we to take God's job?" said Representative Rosaire Sirois, a Caribou Democrat, who, like Mr. Brooks, is a Catholic. "This is God's department. This is one of the Ten Commandments, 'Thou shalt not kill.' This is killing."

Last month, a Strategic Marketing Services poll of 450 citizens said 71 percent of respondents believe terminally ill, mentally competent patients should have the right to have a physician help them die. That total was up 7 percentage points from a poll done a year ago.

The poll had a margin of error of plus or minus 4.6 percentage points.

Mr. Brooks said the defeat "simply delays the process."

"This will become law in a couple of years," Mr. Brooks said. "How it will become law remains to be seen. Do we decide at some point to take it out to initiative and have petitions signed and all that? We might."

Although he said he would prefer to work within the legislative process and has not ruled out another bill, Mr. Brooks said he could count on a network of about 700 people "who are absolutely committed to this they are willing to go out and work for us and circulate petitions."

The New York Times

THURSDAY, FEBRUARY 12, 1998

Gore Supports Democrats' Tough Antismoking Bill

By JEFFREY TAYLOR
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON – Vice President Al Gore expressed support for a tough Democratic antismoking bill but said the administration still wants to see a bipartisan approach to tobacco legislation.

"President Clinton strongly supports this bill and would gladly sign this bill if Congress puts it on his desk," Mr. Gore said at a news conference with 11 Democratic senators, including the bill's author, Kent Conrad of North Dakota.

The bill would raise cigarette prices a $1.50 a pack over three years while denying the tobacco industry most of the relief it has been seeking from a wave of suits.

Mr. Gore added that the Clinton administration is still seeking legislation that members of both parties will support. "I hope Republicans will join us on this bill or on others that meet the president's" criteria for fighting underage smoking.

The administration is closely watching a bipartisan bill now being written by Democratic Sens. Tom Harkin of Iowa and Bob Graham of Florida and Republican Sen. John Chafee of Rhode Island. The bill is expected to include some of the legal protections the industry wants, while taking steps to raise cigarette prices and otherwise curb underage smoking.

At a Democratic caucus Tuesday, some senators, such as John Kerry of Massachusetts, backed the Conrad plan, arguing that only uncompromising steps such as the ones it contains will be effective in reducing teen smoking. Mr. Harkin disagreed, saying that giving the industry some civil-liability protection would allow it to restrict its advertising and marketing and take other steps it agreed to in its proposed $368.5 billion settlement with state attorneys general and health groups.

Sens. Harkin and Chafee teamed up in September on a measure to spend $34 million to fight the sale of cigarettes to underage smokers. Yesterday, Sen. Chafee said the Conrad bill "isn't going to get the job done" because it doesn't enjoy support from any Republicans. "What is needed . . . is a bipartisan approach," he said.

The Clinton administration has said it can accept "reasonable" limits on the tobacco industry's legal liability in exchange for a strong antismoking bill. But it also says it would rather have a bill without the liability protections, if possible.

Sen. Conrad's bill contains no such protections. The senator said his bill would raise about $500 billion over 25 years, far more than the $368.5 billion envisioned in the proposed settlement. The bill would confirm the Food and Drug Administration's right to regulate nicotine in cigarettes, seek a two-thirds reduction in youth smoking and impose stiff penalties on the industry for failing to meet that goal, and sharply restrict tobacco marketing aimed at children in the U.S. and abroad.

U.S. Signing of Global-Warming Treaty Faces Delay of at Least a Year, Aide Says

By JOHN J. FIALKA
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON – The Clinton administration will delay signing the global-warming treaty for a year or more while it mounts a "full-court diplomatic press" to persuade major developing nations to adhere to the pact voluntarily, Undersecretary of State Stuart Eizenstat said.

Mr. Eizenstat, who led the U.S. team negotiating the treaty in Kyoto, Japan, last December, also told skeptical Republicans on the Senate Foreign Relations Committee yesterday that the administration will soon release its long-awaited economic analysis of the treaty. The study will show how the pact will create high-technology jobs for the U.S. by developing overseas markets for energy-efficient technology and will be "dramatically different" from industry studies showing a major loss of U.S. jobs, he said.

Mr. Eizenstat acknowledged that it will be a "real stretch" to line up enough support from China, India and other major developing countries within the next year to satisfy a Senate resolution requiring those nations to commit to the treaty's goals of reducing so-called greenhouse gas emissions as a condition for Senate ratification.

The treaty, which covers only industrial nations, opens for signatures next month. Beginning in 2008, the pact will require industrial nations to curb their emissions of carbon dioxide and five related gases that are believed to be warming the planet by trapping more of the sun's heat.

Calling the treaty "a work in progress," Mr. Eizenstat said the U.S. will also cooperate with industrial nations this year to work out rules for complying with the treaty and for international trading of emissions credits that weren't detailed in Kyoto.

Sen. Chuck Hagel (R., Neb.), the Senate's chief critic of the treaty, called for President Clinton to submit it to the Senate promptly. "Until this treaty is ratified by the Senate, there should be no action taken by the administration to implement [its] obligations," he said.

Both Democrats and Republicans on the panel agreed there isn't enough support in the Senate for ratification. But based on the panel's discussions, supporters' ranks appeared to have grown some since last summer, when 18 Democrats joined 47 Republicans to sponsor what was thought to be a treaty-stopping resolution.

One reason for the improvement was Mr. Eizenstat, who took over treaty talks at the last minute and whose skills were praised by Sen. Hagel and other treaty critics.

Mr. Eizenstat said that the emissions-trading plan will be one of the main tools to attract developing nations' support for the treaty. In emissions trading, a cap is imposed on the level of a pollutant, and major polluters are issued certificates that let them emit a portion of that cap. A polluter that cuts more than its share of pollution can sell excess certificates to polluters that exceed their share. The plan also will allow U.S. companies cheaper ways to reduce emissions by rewarding them for helping developing nations come up with more-efficient energy systems and better forestry practices.

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THURSDAY, FEBRUARY 12, 1998

Gore Praises Democratic Tobacco Measure as Bipartisan Efforts Continue

By Saundra Torry
and John F. Harris
Washington Post Staff Writers

Vice President Gore tried to generate movement in the tobacco debate yesterday, vigorously embracing tough Democratic legislation but leaving room to support a bipartisan approach to the highly charged issue.

Gore's lavish praise of the Democratic bill that would impose a $1.50-per-pack tax on cigarettes came after several days of internal administration deliberations over how vigorously to back the bill that some worry is too partisan.

"Let me leave no doubt . . . President Clinton strongly supports this bill and would gladly sign this bill if Congress puts it on his desk," Gore told a crowd of public health advocates and Democratic lawmakers.

The bill, written by a Democratic task force headed by Sen. Kent Conrad (N.D.), would treat the tobacco industry far more harshly than a proposed settlement reached last year. It would raise taxes more and faster—$1.50 over three years—than envisioned in President Clinton's budget. It seeks higher industry payments than two GOP measures, and denies the industry the controversial legal protections it has sought from mounting lawsuits.

Gore's comments marked the latest steps in the debate, as Congress and the administration plod toward molding a new national tobacco policy.

On one hand, the administration wanted to give a strong push to the Democratic bill as a way of restoring momentum on the tobacco issue.

At the same time, administration officials said, Clinton and Gore were eager not to offend Sen. Tom Harkin (D-Iowa), who is trying to craft a bipartisan bill with Sen. John H. Chafee (R-R.I.) and is urging the administration to pursue a less confrontational, less partisan approach. Some Clinton advisers, including White House deputy counsel Bruce Lindsey, are worried that if the issue becomes too politicized it will alienate moderate Republicans whose support on tobacco the administration wants.

Chafee and Harkin criticized Conrad's approach, with the strongest words coming from liberal Democrat Harkin, a vocal smoking opponent. He said the Conrad bill was being "rolled out . . . in a laying-down-the-gauntlet" fashion, which may further divide Democrats and Republicans and diminish the chance of compromise.

To advance tobacco legislation, the administration is attempting to establish a division, but not a partisan one, according to one senior administration official. The distinction it seeks to emphasize is between those who back "comprehensive" tobacco legislation and those who support a more modest, "piecemeal" approach. Several Republicans, particularly conservatives, have suggested that a bill focused on reducing teenage smoking may be more achievable than broad legislation.

"The president and I simply cannot get behind a watered-down piecemeal bill," Gore said yesterday.

The critical issue for Clinton and Gore, aides say, is having legislation that over several years would raise the per-pack price of cigarettes by $1.50, far more than the payments the industry agreed to in the proposed June 20 settlement.

The price increase is critical to discourage youth smoking, the a istration contends. And, not coincidentally, the levies the administration would impose to get that price increase are a major source of funding—nearly $10 billion next fiscal year—for new spending proposals on child care and scientific research contained in Clinton's budget.

Yesterday, the tobacco industry called Conrad's proposal "seriously flawed" because it would "raise taxes on 50 million adult Americans, wreak economic havoc in many states fail to achieve" the comprehensive solution agreed to by the industry last summer.

Gore Praises Democratic Tobacco Measure as Bipartisan Efforts Contin ie

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Bipartisan Bill Over Tobacco Is in the Works

By JEFFREY TAYLOR
And BRIAN DUFFY
Staff Reporters of THE WALL STREET JOURNAL

WASHINGTON – A bipartisan bill that could break the logjam over tobacco legislation wouldn't give cigarette makers controversial legal protections, but would place an annual cap on the industry's legal payouts.

The bill, being written by Democratic Sens. Tom Harkin of Iowa and Bob Graham of Florida and Republican Sen. John Chafee of Rhode Island, also would raise cigarette prices $1.50 a pack over three years. This would accommodate public-health authorities calling for a cigarette-price increase of at least that much as the best possible deterrent to smoking by the underaged.

The Smokeless Fix

Drug companies begin to envision nicotine patches and gums for long-term use, rather than for just kicking the cigarette habit. Article on page B1.

Sens. Harkin and Graham's offices emphasized last night that the bill is a work in progress. "We continue to be optimistic that [our] talks will produce comprehensive tobacco legislation that

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will be passed into law," spokesmen for the two senators said.

The bill's progress is being watched closely by the White House. Its sponsors have held "technical-assistance sessions" with White House staff, the Food and Drug Administration and public-health advocates, including former Surgeon General C. Everett Koop and Matthew Myers of the National Center for Tobacco-Free Kids, and have briefed various officials and lawmakers.

The proposed national tobacco settlement contains three important legal protections for tobacco companies: immunity from punitive damages in civil lawsuits alleging past misconduct; a ban on future class-action lawsuits against the industry; and an annual cap, starting at $2 billion and rising to $5 billion, on the industry's payouts on any civil lawsuits it lost.

The punitive-damage and class-action provisions have been a lightning rod for criticism on Capitol Hill, and opinion polls show the public strongly disfavors giving the tobacco industry special legal protections. And neither Republicans nor Democrats have shown much appetite for a bill that would provide them to the industry.

But lawmakers might be more amenable to an annual cap on industry liability if the punitive damage and class-action provisions were scrapped, congressional aides in both parties suggest. Also, a cap might give the industry the financial predictability it sought in negotiating the $368.5 billion settlement, damping any opposition to strong, comprehensive tobacco legislation.

At a briefing last week, industry attorney Meyer Koplow was asked whether the industry could accept an annual cap without the other legal protections. He hesitated, then said the industry had considered that alternative in the settlement negotiations and decided a cap, alone, wouldn't be adequate protection from the wave of civil lawsuits it faces.

The Chafee-Harkin-Graham bill would reaffirm the FDA's authority to regulate nicotine, although it isn't clear whether it would classify nicotine as a drug as the FDA wants. It is just one of at least three efforts to craft bipartisan tobacco legislation, albeit one that the White House has singled out for especially close scrutiny.

Other signs of progress on tobacco legislation were also visible yesterday.

Senators Working Together

Senate Commerce Committee Chairman John McCain of Arizona and GOP Sen. Orrin Hatch of Utah, chairman of the Judiciary Committee, said they agreed to work together on a compromise of their rival tobacco bills. In a rare appearance before Sen. McCain's committee, Sen. Hatch said: "I want to work with the members of this committee to craft bipartisan, comprehensive anti-tobacco legislation which can be enacted this year."

To make the legislation bipartisan, Sen. McCain asked for help from Democrats including Sen. John Breaux of Louisiana, long regarded as a bridge for building coalitions across party lines.

Separately, the Justice Department is talking with the Liggett Group Inc., a unit of Brooke Group, about a deal that could significantly accelerate a criminal investigation of the industry.

An agreement to cooperate with prosecutors would be significant because Liggett could provide documents and other information about industry practices, including whether other companies manipulated nicotine levels. Justice Department attorneys are investigating whether tobacco executives testified falsely about that issue and other practices during appearances before Congress and in documents filed with federal regulators.

Justice Department officials declined to comment. Stanley Arkin, Liggett's counsel in the Justice Department inquiry, didn't return calls to his New York office.

Attorneys familiar with the inquiry said prosecutors are exploring the possibility of filing a range of charges against Liggett and other cigarette makers. These could include charges of false statements and perjury as well as mail and wire-fraud allegations.

Any agreement would require the company to turn over internal documents, attorneys and others familiar with the inquiry said. "It's important not only to have internal documents that show potential criminal behavior, but to have a live witness who can corroborate events and testify before a grand jury," said Democratic Rep. Marty Meehan of Massachusetts, who sent the Justice Department a lengthy memo in 1994 alleging a variety of tobacco-industry misconduct.

THE WALL STREET JOURNAL
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Forwarded Clips

Judge's Death Puts Ruling in Question On FDA and Tobacco

By a WALL STREET JOURNAL *Staff Reporter*

RICHMOND, Va. – The long-awaited decision by a federal appeals court considering whether the Food and Drug Administration can regulate nicotine was thrown into further question by the death of the senior judge of the panel that is to decide the case.

U.S. Circuit Judge Donald S. Russell, who died of natural causes Sunday at the age of 92 at his home in Spartanburg, S.C., was the most openly skeptical of the FDA's authority to regulate tobacco when a three-judge panel of the Fourth U.S. Circuit Court of Appeals heard oral arguments in August. Senior U.S. District Judge James H. Michael, sitting on the appeals court for the case, also appeared skeptical of the FDA's authority. Only U.S. Circuit Judge K.K. Hall, of Charleston, W.Va., seemed receptive.

A decision, which government lawyers said was to be written by Judge Russell, had been expected by January. The delay had been attributed to either Judge Russell's age or the reluctance of the panel to resolve the thorny legal question in light of the proposed $368.5 billion national tobacco settlement pending before Congress. Under that deal, the tobacco industry would accede to FDA jurisdiction and curtail youth-marketing practices in return for immunity from some civil lawsuits and punitive damages for past wrongdoing.

Judge Russell's death leaves the decision in the hands of Judges Michael and Hall, if they are in agreement. If they are split, they will order a rehearing, either before them and a third appeals-court judge, or before an entirely new panel, according to a clerk at the appeals court based in Richmond, Va. Judge Hall, 80, is also in poor health.

A lower-court judge in Greensboro, N.C., last year decided in the FDA's favor, though he threw out proposed FDA tobacco-advertising restrictions. The lower-court ruling came in a challenge to the FDA regulations brought by four tobacco companies and the New York advertising firm Coyne Beahm. Both sides appealed.

U.S. Seeks to Extend Salmon Protection, In Sweeping Bid to Rebuild Fish Stocks

By LAURIE MCGINLEY
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON – In a sweeping effort to rebuild dwindling fish stocks, the federal government proposed extending Endangered Species Act protection to 13 salmon and steelhead populations in Washington state, Oregon and California.

The National Marine Fisheries Service warned that the fish are headed toward extinction unless steps are taken quickly to restore their numbers.

"The message we're sending to everyone is that the status quo isn't acceptable," said Terry Garcia, assistant secretary of Commerce for Oceans and Atmosphere. "Extinction isn't an option." He encouraged the states to develop conservation plans rather than waiting for federal directives.

Under the Endangered Species Act, the fisheries service, which is part of the Commerce Department, now has 12 to 18 months to decide whether the species should be listed as threatened or endangered, and thus subject to federal protections. Once a species is officially listed, it is illegal to kill it or adversely affect its habitat. In addition, the fisheries service develops a recovery plan that can include restrictions on fishing, roadbuilding, mining, agriculture and other activities.

Mr. Garcia said the federal government might not end up listing the fish as endangered if state, local and tribal governments move quickly to counter hazards to the fish. "The choice is up to them," he said, adding that officials should examine potential threats caused by overfishing, water pollution and excessive development.

The proposed listing is notable for its geographic sweep: from south of San Francisco to the Canadian border. It is also a rare instance of the government trying to use the controversial act's protections in a heavily urbanized area – in this case, Puget Sound, home both to chinook salmon and the city of Seattle.

Ron Sims, county executive for King County, which includes Seattle, said that protecting the fish without disrupting the vibrant local economy will be "daunting," but the region has little choice. "We want to send out the message that we are a great place to live, that we protect the environment while having a good economy," he said. "So it isn't just about the restoration of chinook salmon, it's also a quality-of-life issue." He said that the county has already spent millions of dollars on steps to restore the fish and that more action will be needed.

Pam Bissonnette, director of the county's department of natural resources, said that the fishing industry already is restricted because of the decline in the fish, which has been going on for more than a year. She said that more restrictions are likely necessary, but that it will be complicated because wild salmon – the fish that are in decline and proposed for listing – are mixed with those from hatcheries. "You can't just put a net out and say, 'I'm only going to take hatchery fish.' "

Melinda Pierce, a spokeswoman for the Sierra Club, applauded the proposed listing, saying it was sorely needed. But she expressed concern that some imperiled populations, such as stocks of chinook salmon in the middle and upper Columbia River, weren't included. However, a spokesman for the fisheries service said the long-term trends for those populations were "positive."

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Reno Threatens Legal Battle to Gain Digital Wiretapping Abilities

By Roberto Suro
Washington Post Staff Writer

Attorney General Janet Reno yesterday threatened a legal battle with the telecommunications industry to ensure that law enforcement can conduct electronic surveillance in the digital age.

Reno said that after nearly three years of negotiations, the Justice Department had reached an impasse with industry representatives over what kinds of modifications to communications technology are necessary to ensure wiretapping abilities and whether the government or industry would pay for them.

Unless the deadlock can be broken, Reno said, the department will ask the Federal Communications Commission on March 13 to set new standards for all telephone networks so that local, state and federal law enforcement agencies have the wiretapping capabilities they feel are necessary for the successful surveillance and prosecution of criminals.

"Unfortunately, if we are pressed to take this step, we will avail ourselves of all lawful mechanisms available," said Reno in an unusually combative statement during a hearing by the House Appropriations Committee. Justice Department and industry officials said the matter could end up in court if no negotiated agreement is possible.

Rep. Harold Rogers (R-Ky.), who chaired the hearing, encouraged Reno to press the case with the FCC, telling her, "I'll buy your car fare down there to file the papers."

Reno and FBI Director Louis J. Freeh have repeatedly argued that keeping up with the rapid evolution of communications technology is one of the most fundamental challenges facing law enforcement. Asked yesterday whether the Justice Department would face limits on its ability on conduct electronic surveillance unless industry made changes, Reno responded, "I think we're there."

While old style copper wire telephone systems were simple to tap into, the FBI and other agencies now find themselves contending with communications systems that are increasingly digital and wireless. Telephones can also be used to transmit everything from ordinary conversations to text to pages.

In response to these developments, Congress enacted the Communications Assistance for Law Enforcement Act of 1994 and authorized the spending of $500 million to help the communications industry replace or modify equipment and software so that it would accommodate surveillance equipment.

Reno acknowledged yesterday that during the first two years of negotiations little was accomplished and that positions hardened on both sides, with the FBI partially to blame for taking an unnecessarily "rigid" position with the industry. Freeh revamped the FBI's negotiating strategy and put a new team in place last summer, and since then Reno said there had been some progress. But she said that as of this week the talks had deadlocked.

The immediate conflict is over whether government or industry should pay for modifications to existing equipment. But defining those modifications will determine what capabilities for electronic surveillance law enforcement will carry into the 21st century and those capabilities are increasingly the focus of the debate.

While the 1994 law originally envisioned reimbursement for the upgrade of equipment in place by Jan. 1, 1995, Reno said yesterday that industry representatives wanted the reimbursement coverage to extend until October 1998. That would cover massive technological changes that have been put into place since the law was enacted. Reno said that meeting this demand would exceed the funding Congress authorized and that therefore an impasse had been reached.

"I think it is a mistake to characterize this just as a money issue," said Thomas E. Wheeler, president of the Cellular Telecommunications Industry Association, one of the industry groups that has been negotiating with the Justice Department over the implementation of the 1994 law.

Wheeler said that the industry supported passage of the 1994 law but that law enforcement pressed demands that go beyond what Congress authorized. "The issue is also whether the FBI is using this situation to expand its capacity and capabilities to conduct electronic surveillance," Wheeler said. That complaint has often been echoed by privacy and civil liberties advocate as well.

In rejecting standards proposed by the industry for law enforcement access to telecommunications, Wheeler said that last year the FBI had added a list of conditions that represented new surveillance capabilities and that it was these demands that had inflated the costs of the modifications.

"When you add ornaments to the Christmas tree, the costs go up," Wheeler said.

FBI and Justice Department officials said that nine specific conditions remained in dispute and that they only represent efforts to maintain current capabilities.

For example, if law enforcement officials are eavesdropping on one individual who participates on a conference call with criminal accomplices, they want the technological ability to continue listening to the call even if the first person hangs up. That would be essential to knowing which participants in the call were part of a conspiracy that was planned after some parties had hung up.

"There are a lot of things that we can do in the old copper wire telephone that are very difficult, if not impossible, in the new systems," said a senior FBI agent. "It is happening to us every day."

The Washington Post
FRIDAY, FEBRUARY 27, 1998

McCain

Senators Trade Pledges on Tobacco

Hatch and McCain, Authors of Competing Bills, Agree to Cooperate

By Saundra Torry
Washington Post Staff Writer

The proposed national tobacco settlement picked up some momentum yesterday as key Senate Republicans inched closer together in trying to fashion a comprehensive measure on the divisive issue.

Judiciary Committee Chairman Orrin G. Hatch (R-Utah) exchanged public promises of cooperation yesterday with Commerce Committee Chairman John McCain (R-Ariz.) as Hatch testified before McCain's committee. Both senators have introduced comprehensive tobacco measures, which have been viewed as competing vehicles.

Those pushing for congressional passage of a tobacco deal viewed the fledgling alliance as hopeful. "Republicans have finally gotten organized, and the prospects [for approval] are greatly enhanced," said Washington lawyer John Coale, one of the proposed settlement's architects. Wall Street tobacco analyst Gary Black said that Hatch's "anti-tobacco stance and focus on kids' issues adds credibility" to any Republican bill.

There were other signs of movement, too. McCain, often critical of President Clinton for failing to send Congress a tobacco bill, said he was pleased that the White House was working to answer a list of 80 questions on the issue he posed earlier this month. White House domestic policy adviser Bruce Reed said he was heartened by the Hatch-McCain cooperation, and he'd be glad "to sit down anywhere, anytime, with anyone who is serious about passing comprehensive legislation."

The number of senators who have not expressed interest in passing some type of tobacco legislation was dwindling to a minority. Twenty-eight Democratic senators have signed as cosponsors of a bill introduced by Sen. Kent Conrad (D-N.D.), while Sens. Tom Harkin (D-Iowa), John H. Chafee (R-R.I.) and Bob Graham (D-Fla.) are working to put together a bipartisan measure.

Both McCain and Sen. James M. Jeffords (R-Vt.), chairman of the Labor and Human Resources Committee, have scheduled committee markups, where legislation is prepared for the floor, next month on various aspects of a tobacco bill.

Still, daunting challenges remain. According to one Republican Senate aide, cooperation "doesn't eliminate the problems we are all suffering from: What do people want to do, where do you go and how do you get there?"

Those divisions were underscored yesterday as McCain's committee focused on the protections from mass lawsuits the industry is seeking in exchange for paying $368 billion and agreeing to broad restrictions on marketing and advertising.

Many Democrats and public health advocates vehemently oppose those limits, insisting the beleaguered tobacco industry is in no position to dictate terms.

But Hatch testified that those provisions were the trade-off that made the deal possible. And several witnesses warned that Congress cannot impose the broad advertising restrictions—which are a key to cutting underage smoking—without the tobacco industry's agreement because they might well be declared unconstitutional.

The issue also has divided the ranks of plaintiffs' trial lawyers, one of Washington's most powerful lobbies.

Cincinnati trial lawyer Stanley Chesley, representing the settlement's architects, said that under the proposed deal, the industry would pay $60 billion in punitive damages and provide $5 billion a year to pay future claims. Given the unsuccessful track record of those suing the industry, he said, this would represent "a major victory" over the industry.

But Eugene I. Pavalon, former president of the Association of Trial Lawyers of America, argued that the restrictions would make the task of suing the industry "almost insurmountable," depriving thousands of victims of smoking-related diseases of their rights in court. The future success of lawsuits shouldn't be judged by the past, he said, because the release of thousands of secret, damaging industry documents "has dramatically changed the landscape" for tobacco litigation.

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