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Consumer Victory Keeps the Roof on Usury Charges

In a major victory for consumers, state usury laws survived the scrutiny of the Senate Banking Committee in late August when that panel finally voted out a watered-down banking deregulation bill.

The 40 state laws which protect borrowers against loansharking, unfair lending practices and deceptive fees and charges have been under assault for over a year, as draft after draft of the omnibus banking package contained provisions wiping usury limits off the state statute books.

As the summer legislative session drew to a close, however, the combination of solid analysis, grassroots pressures and election year politics proved too strong even for the massive forces of the banks, savings and loans, and finance companies behind the effort to preempt state interest rate ceilings.

"Consumer groups should be particularly proud of this victory," said David Greenberg, CFA's Legislative Director, "since the usury provision was literally the only part of the package that the entire lending community agreed on. But even that unanimity could not stand up in the face of the hard work of consumer and labor groups in Pennsylvania, Michigan and Rhode Island—states whose Senators played a key role in ensuring that the usury provisions never made it into the final bill."

CFA Endorses Congressional Candidates

Calling the upcoming November elections "crucial to restoring Congressional accountability to the American people," the Consumer Federation of America announced 79 candidate endorsements at a mid-September press conference on Capitol Hill. "In the next two years, special interest lobbyists will continue to push Congress to support legislation which will benefit them at the expense of the public," CFA Legislative Representative Glenn Nishimura told the press conference. "But the candidates we are endorsing here today have consistently resisted the lure of special interest contributions and have demonstrated that their loyalty is to only one interest—the public interest."

In House races, CFA endorsed 63 incumbents, four challengers and six candidates for open seats. The nation's largest consumer advocacy group also endorsed four incumbents and two challengers for seats in the Senate.

Sixteen endorsed candidates attended the press conference, including: Rep. Toby Moffett who is challenging Connecticut Republican Senator Lowell Weicker; Rep. Bob Edgar (D-PA); Rep. Don Edwards (D-CA); Rep. Dennis Eckart (D-PA); Rep. Barney Frank (D-MA); Rep. Frank Guarini (D-NJ); Rep. James Howard (D-NJ); Virginia Assemblyman Ira Lechner; Rep. Bill Ratchford (D-CT); Rep. Claudine Schneider (R-RI); Rep. Bob Shamansky (D-OH); Rep. Pete Stark (D-CA); Rep. Fernand St Germain (D-RI); Rep. Bruce Vento (D-MN); Rep. Howard Wolpe (D-MI) and Rep. Sidney Yates (D-IL).

The high cost of winning a Congressional election and the pressure from special interest groups who have the resources to line campaign coffers and

buy influence was a theme the candidates hammered at often during the press conference.

"There is often a loss of accountability in Congress because Congressmen are forced to raise money in grandiose sums," said Rep. Bruce Vento, "and this results in large special interest contributions" which come with strings attached.

There is no special interest group to represent consumers, Rep. Pete Stark added, but "CFA makes sure the consumer point of view is heard" and that Congressmen are made accountable for their positions.

Rep. Toby Moffett praised the CFA "system of rewards and demerits" which reveals the voting records of individual Congressmen and analyzes the consumer positions of Congressional candidates.

"We've seen a lot of attacks against the consumer interest in this past Congress," said Rep. Bob Edgar, "and they will continue. But CFA has helped send

a message out that there are Congressmen who care about equity, who care about consumers and who risk themselves on tough votes."

The average consumer voting record of the candidates endorsed by CFA was 86% for 1981, as opposed to an average 29% consumer voting record for the incumbents CFA is challenging, Nishimura said.

Of the 79 endorsements made by CFA, nine House races and two Senate races have been designated as key campaigns. Candidates endorsed in the priority races include: Moffett, Edgar, Frank, Lechner, Shamansky and Stark, as well as Attorney General Jeff Bingaman, running for a Senate seat in New Mexico, state senator Buzz Andrezeski running for a House seat in Pennsylvania, Rep. Tom Daschle (D-SD) and Illinois Congressional candidate Lane Evans.

CFA will announce a second round of candidate endorsements in mid-October.



CFA Legislative Representative Glenn Nishimura introduces Federation endorsed candidates at a Capitol Hill press conference. Among the candidates in attendance were (left to right): Rep. Dennis Eckart, Rep. Bruce Vento, Rep. Bob Shamansky, Rep. Bill Ratchford, Rep. Don Edwards, Rep. Fernand St Germain, Rep. Sidney Yates, Rep. James Howard, and Rep. Howard Wolpe. Also attending were: Rep. Claudine Schneider, Rep. Toby Moffett, Rep. Bob Edgar, Rep. Barney Frank, Rep. Frank Guarini, Rep. Pete Stark and Assemblyman Ira Lechner.

CFAnews photo by Anne C. Avery

Keep Funeral Rule Alive

By Dorothy K. Howe,
Assistant Executive Director,
Continental Association of
Funeral and Memorial Societies

Editor's Note: The CAFMS is a national non-profit organization of volunteers, with 178 member societies representing nearly a million members.

Many years ago the Saturday Evening Post ran a cartoon showing two Egyptians talking to each other against a backdrop of thousands of slaves completing the construction of an enormous pyramid. The caption read: "We may not see it in our time, Hittetterres, but some day people are going to get fed up with the high cost of dying."

The American public has waited nearly a decade for the Federal Trade Commission to complete work on a funeral rule that would provide minimum protection for consumers who are often victimized at those times in their lives when they are overcome with grief and are most vulnerable.

In late July, the FTC finally approved a funeral rule, although it is only a bare skeleton of the rule first proposed in 1975.

Nevertheless, the rule does contain some important consumer safeguards. It provides for itemized written price lists of services or merchandise offered, requires disclosure of price information if requested by phone, prohibits the misrepresentation of legal, crematory or cemetery requirements and prohibits funeral directors from embalming without permission or requiring caskets for direct cremation.

Despite its deficiencies, the rule has the support of a broad coalition of senior citizens groups, clergy and consumer groups, including CFA and its member organization, the Continental Association of Funeral and Memorial Societies.

The FTC is expected to send the funeral rule to Congress in September,

after which Congress will have 90 working days to approve or veto the rule.

Grassroots Support Essential

If the funeral rule is to be spared the fate of the used car rule, consumers at the grassroots must make their voices heard. The used car industry purchased influence in Congress to veto that rule through massive PAC contributions. Consumers must put pressure on their Congressmen to prevent a similar veto of the funeral rule.

The funeral industry in America is a multi-billion dollar business. It can afford to line Congressional campaign coffers to keep its business unregulated. But if consumers, especially as the November elections near, make it clear to their Congressmen that they represent the interests of their constituents and not the special interests, then the industry's tactics will fail.

Opponents of the used car rule argued for the efficiency of market forces and the warning "let the buyer beware" when they defeated that measure. But consumers planning a funeral

are at a unique disadvantage because they are emotionally stressed and under time pressures. Unlike the used car buyer, they often have little opportunity and less desire to "shop around."

In addition, veto of the funeral rule would hit hardest at senior citizens, who when planning a funeral are even more vulnerable to deception.

Despite the heavy-handed pressures from the funeral industry to veto the FTC rule, consumer groups and their allies are fighting in Washington for its approval. But broad-based grassroots support from across the country is essential to that effort.

At present, the House Commerce Subcommittee which has jurisdiction over the rule is split on whether to bring it to the floor for a vote. If the rule remains tied up in committee, approval will be automatic after 90 working days. If it comes to a floor vote, it can only be overturned by a majority in both houses.

Rep. Martin Russo (D-IL) is leading the veto fight in the House. He has the support of the National Funeral Directors Association which opposes the rule even in its watered-down form, preferring to keep the non-competitive industry on a self-regulation basis.



Letters, telegrams and telephone calls should be targeted to Rep. Russo as well as to your own Congressman and Senator. Be sure to outline the strengths of the rule and its importance to consumers. For more information contact: Continental Association of Funeral and Memorial Societies, 1828 L St. NW, Suite 1100, Washington, DC 20036. Or call (202) 293-4821.

David Greenberg's editorial entitled "Bankruptcy Reform"—Worst Possible Time (CFAnews, April/May) absolutely failed to address the fact that legitimate credit grantors, including credit unions, are being victimized through bankruptcy by some debtors who are gainfully employed, not destitute, and have the capability of paying a substantial portion, if not all, of their debt load.

Greenberg claims that CFA shares the view that bankruptcy should be a "last ditch alternative to financial ruin" and, that people who can pay should pay. Unfortunately, I have seen very little evidence of that if it is true. What I have seen and heard is the kind of rhetoric that displays what we are trying to accomplish in achieving bankruptcy reform as "using tactics that would make a sailor blush."

The bottom line is that as consumer financial cooperatives, credit unions are, and always have been, concerned about the well-being of their membership including those that experience financial distress. As financial cooperatives we also recognize that a debt loss, whether through bankruptcy or other means, must be shared by all of the members of the credit union. That is one reason why the CUNA National Directors unanimously passed the resolution during our annual meeting in May to support this amendment of the Bankruptcy Reform Act of 1978.

We at CUNA recognize that if the bankruptcy act is to be amended it should be done in a manner so as not to create additional hardship to a truly

CFAnews

To the Editor:

bankrupt debtor. We have said that since day one of our quest to get the current law amended.

—Jim Barr, CAE
Executive
Vice President
Credit Union
National
Association, Inc.

Greenberg Responds

As the saying goes, legislative battles tend to generate more heat than light. The current effort to amend bankruptcy laws is no exception.

Behind the rhetoric on both sides, however, lies a legitimate difference of opinion. Jim Barr looks at increasing bankruptcy filings and sees the losses to credit unions and the fact that some debtors do use bankruptcy as a way to walk away from debts they could pay.

I look at the same bankruptcy data and see an overwhelming majority of debtors with little or no chance of pulling themselves through without the fresh start provided by bankruptcy. I also see the personal tragedy that often forces a debtor's recourse to bankruptcy.

These different points of view obviously dictate different legislative stances. My fears about the current bankruptcy bills stem from my belief that they cast their net far too wide in an effort to catch the small number of cheaters. In so doing the legislation would harm too many of the debtors who need and deserve a fresh start.

Jim Barr's point is well taken, however, and as the legislation continues to take shape, perhaps we can find some common ground.

— David Greenberg

Turning the American Dream into a Nightmare



CFAnews photo by Art Stein

CFA Legislative Director David Greenberg takes a question from Jim Lehrer during a recent appearance on *The MacNeil-Lehrer Report*. Discussing the relationship of creative financing schemes to the record number of home foreclosures, Greenberg said the new schemes have become "a recipe for disaster." His opponent in the debate, Richard Loughlin, President of Century 21, defended the alternative financing plans as a means of achieving the "great American dream" of home ownership. Greenberg countered: "I don't think home ownership will mean much if three to five years from now people have to face giving up their home. Given the risks involved in alternative financing, the American dream is going to turn into a nightmare."

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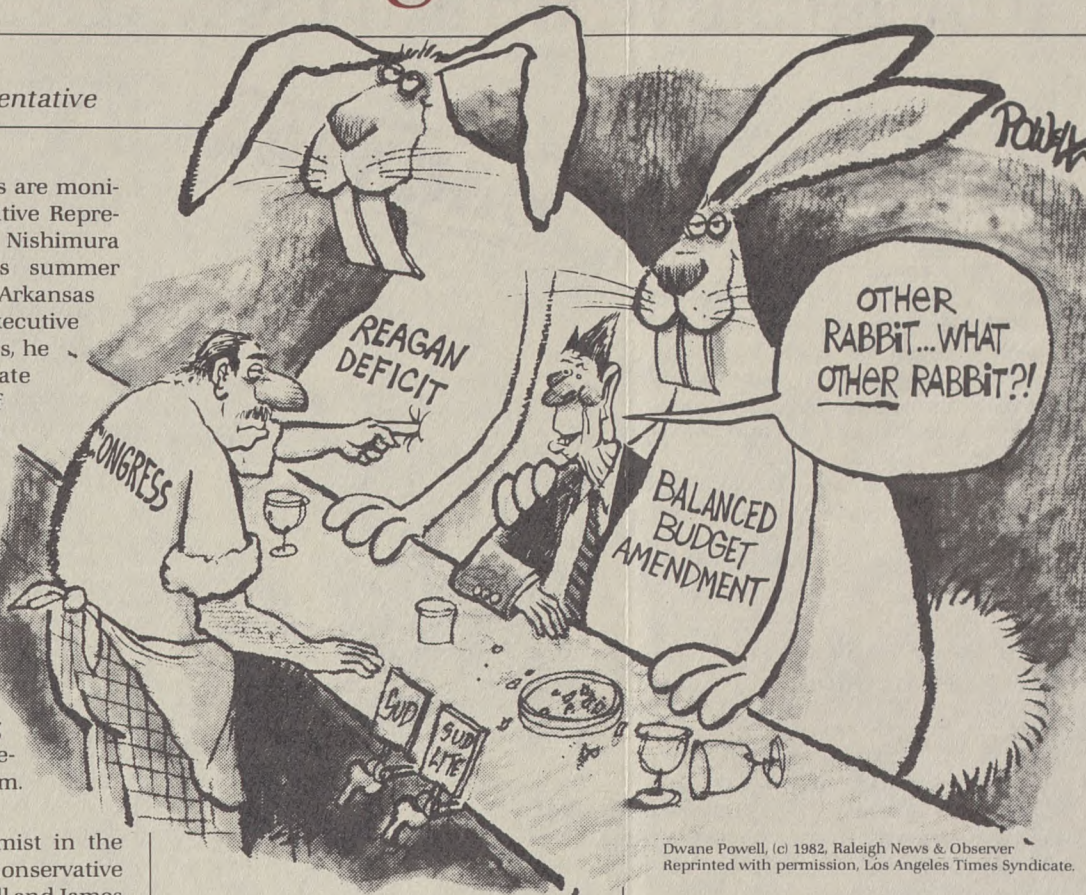
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Unbalanced Budget Amendment

By Glenn Nishimura,
CFA Legislative Representative

Editor's Note: Budget issues are monitored by CFA's new Legislative Representative Glenn Nishimura. Nishimura joined the CFA staff this summer after eight years with Arkansas Consumer Research. As Executive Director of ACR for five years, he lobbied extensively in the state legislature on a variety of consumer protection issues, including utility rate cases, and he feels that advocacy experience will serve him well in Washington. In addition to budget issues, Glenn is working on several FTC issues, including reauthorization, the used car rule, and the funeral rule. He is also directing CFA's candidate endorsement program.



Dwane Powell, (c) 1982, Raleigh News & Observer
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Virtually every economist in the country opposes it. Conservative columnists George Will and James Kilpatrick have derided it. Former President Gerald Ford said "It will not work." What it is, is the proposed Constitutional Amendment to balance the federal budget (SJ RES 58).

The proposal itself is deceptively simple. It would prohibit Congress from adopting any budget in which outlays exceed receipts, except by a 3/5 vote in each House. Additionally, revenue growth would be limited to the rate of growth of "national income" in the prior calendar year.

Critics have enumerated a list of technical problems in the construction of the amendment, including the lack of general agreement on the meaning of "national income" and the failure of the bill to define it.

Even more crucial, however, is the regressive impact the amendment would have on the national economy. Not only would it tend to deepen recessions, but it would also effectively strip Congress of its ability to authorize funds for the type of fiscal policies that have lifted the nation out of past recessions.

House on Hold

Throughout the summer, a loose coalition of labor, civil rights, social service and consumer groups—including CFA—has waged an increasingly intensified battle against passage of the proposed amendment. The coalition was handed a serious setback in early August when the Senate, by a thin margin of two votes, approved the amendment.

But House Judiciary Committee Chairman Peter Rodino (D-NJ), a staunch opponent of the measure, now has the bill bottled up in his committee. Although Rodino held hearings on the bill in August, no one expects him to bring it out of committee in the near future.

Supporters of the measure in the House, led by Rep. Barber Conable (R-NY), have filed a discharge petition to get

the amendment out of Rodino's grasp. But though Conable has gotten close, he has yet to muster the necessary 218 signatures that would bring the bill to the floor for a vote.

Opponents of the amendment are optimistic that if they can keep it off the House floor until after the November elections, the bill will lose supporters in the event of a lame duck session. They reason the proposal is seriously flawed and its support, at present, is politically motivated.

Diversion Tactics

Politics has indeed played the key role in the amendment's emergence into the national limelight. The Reagan Administration has embraced the balanced budget amendment in an at-

tempt to divert national attention from its own record-breaking deficits.

The same Reagan Administration that initially projected a 1982 deficit of \$38 billion is now faced with trying to explain away a real deficit closer to \$140 billion. Rather than accepting responsibility, they are throwing up the smoke-screen of a balanced budget amendment.

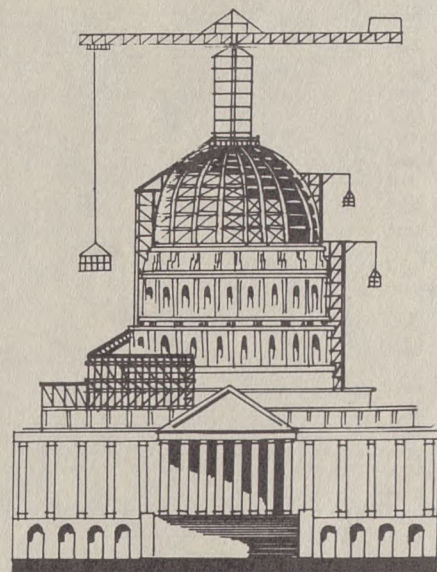
The fight against the balanced budget amendment should not be misconstrued as a fight against a balanced budget. By calling for a balanced federal budget by 1986, the Administration is trying to divert attention from the fact that by 1985 it will have increased the national debt by a whopping \$500 billion.

The Religion of Politics

Nor are the record-breaking Reagan deficits being amassed to provide more jobs and services to the American public. They are going to fund an already bloated Pentagon budget, and to finance an ill-advised three-year tax cut which drastically reduced federal revenues while only benefiting the rich.

Meanwhile, massive cuts in federally funded social services have further disenfranchised the poor and reductions in such federal programs as education, health and veterans benefits, have eaten away at middle-income budgets already reeling from the recession. Middle and low-income Americans are the victims not the culprits of the Reagan deficits, and the proposed balanced budget amendment further exacerbates the obvious inequities of the Administration's policies.

For someone who has amassed the greatest budget deficit in history to call for a balanced budget amendment is at best a cruel contradiction. At worst, it is a callous sacrifice of American economic stability for partisan political gain.



WASHINGTON PERSPECTIVE

The battle for the soul of the Federal Trade Commission moved to court recently, as CFA filed an amicus curiae brief in the Fifth Circuit Court of Appeals case, *FTC v. Dixie Finance Company*.



According to CFA attorney David Greenberg, the Dixie case represents a major effort by the finance industry to cut off the Commission's ability to police deceptive lending practices.

"If the FTC's antagonists are successful in the 5th Circuit, finance companies and auto dealers will be free to mislead borrowers about the status of credit insurance," Greenberg commented, "for they have presented the court with the bald assertion that they may lie about credit insurance without any fear of FTC action."

As outlined in the CFA brief, the Dixie controversy centers around the scope of the McCarran-Ferguson "business of insurance" exemption. In enacting the McCarran-Ferguson Act, Congress granted a partial antitrust immunity to insurance, an immunity reflected in the Federal Trade Commission Act as well.

However, Greenberg argues, that immunity has been interpreted by the Supreme Court to extend only to core insurance functions. The activities of finance companies and auto dealerships in the Dixie case—arranging loans for consumer borrowers—in no way meet the legal tests established in Supreme Court cases, according to CFA's analysis.

Oral argument in the case is scheduled for late this fall, with a decision expected soon after.

House Upholds Pesticide Protections

Despite heavy pressure from the chemical industry, the House of Representatives in early August rejected an Agriculture Committee bill that would have weakened federal and state protections against pesticides.

In approving a two-year extension of the federal pesticide control law, the House defeated amendments that would have limited states' ability to regulate beyond the federal minimum standards and restricted access of the public to health and environmental data on pesticide products. It also approved an amendment to allow victims access to the federal courts to seek injunctions against exposure to pesticides.

In testimony earlier this year before a House Agricultural subcommittee, CFA Executive Director Stephen Brobeck explained the need for a strong pesticide law by citing statistics on the frequency of poisonings. In 1978, for example, 9000 pesticide poisonings were reported and, according to the U.S. Poison Control Center, this figure represented only 10% of the actual poisonings.

Brobeck attributed the floor victory to the effective work of the National Coalition Against the Misuse of Pesticides, a broad-based coalition in which CFA participates, and to public concern with threats to health and safety.

The Consumer Federation of America has petitioned the U.S. Consumer Product Safety Commission to undertake an immediate mandatory rulemaking to limit the formaldehyde emissions from pressed wood products such as particleboard and plywood.

"American homes are becoming chambers of toxic gas as urea-formaldehyde fumes escape from kitchen cabinets, particleboard furniture, subflooring and plywood walls," explained CFA Product Safety Specialist Anne Averyt.

"The off-gassing from these products, which according to industry estimates find their way into more than one in three American homes, is identical to the off-gassing from urea-formaldehyde foam insulation," Averyt said. The CPSC banned the manufacture and sale of the foam insulation (UFFI) earlier this year.

Citing the established health risks associated with formaldehyde, the CFA petition charged that the voluntary process to lower emission levels which is now underway at the Commission will not result in adequate safeguards, and will involve a lengthy and costly procedure.

Formaldehyde fumes have been linked to cancer in laboratory animals and can cause severe "allergic" reactions in many people ranging from eye, nose and throat irritation to skin rash, abdominal pains, chest pains, personality changes, headaches, vomiting, nosebleeds, and nausea and many "asthma-like" symptoms.

CFA Petitions CPSC to Regulate Wood Products

Because the medical community is uninformed about formaldehyde poisoning, victims often spend thousands of dollars for treatment that brings them no relief, the petition said.

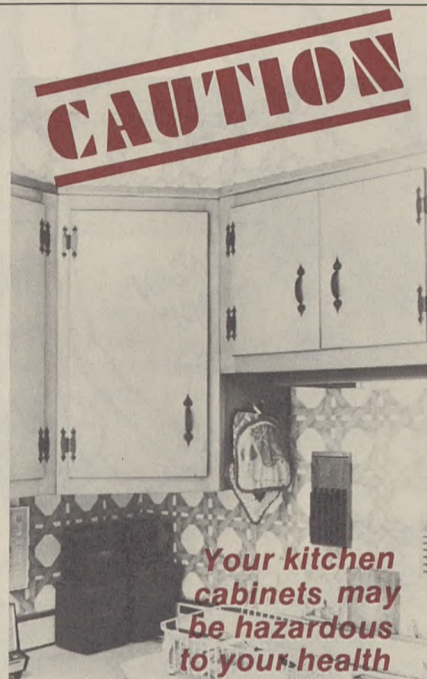
In addition, victims can become sensitized to formaldehyde in other products, causing them to experience a severe allergic reaction whenever they come in contact with the thousands of consumer products containing the chemical, from lipstick to felt-tip pens, to paper bags, cooking gas and permanent press clothing.

According to the National Academy of Science, up to 20 percent of the American population is susceptible to formaldehyde poisoning even at low levels of exposure.

Reduce Emissions or Ban the Chemical

The CFA petition called for a product standard of 0.05 ppm for emissions from the pressed wood products. Formaldehyde emissions can reach levels as high as 10 ppm in mobile homes that contain considerable quantities of formaldehyde-emitting products, Averyt said.

According to the petition, the pressed wood industry denies formaldehyde



fumes are toxic at levels below 1 ppm. The industry has consistently fought any standard that is below the 0.4 ppm level they can currently achieve in pressed wood products.

The CFA petition, however, called on the Consumer Product Safety Commis-

sion to ban the use of urea-formaldehyde in these products unless a lower emission level is reached.

Several nations have established residential limits of 0.1 ppm, which according to Averyt, is the highest safe room level for formaldehyde emissions.

The petition argues that due to multiple sources of formaldehyde in the home, changes in heat and humidity which increase the level of off-gassing, and home weatherization improvements which cut off air ventilation, the product standard for the pressed wood products must be well below the desired ambient room level of 0.1 ppm.

Toxic Toys and Door Jambs

Pressed wood products are used almost exclusively in the construction of mobile homes. They are also widely used in the construction of new conventional homes, and in home remodeling and renovation. Particleboard and plywood are also extensively used as a substitute for wood in the manufacture of many household products including furniture, toys, bookcases, and cabinets.

"Unless formaldehyde emissions from these products are lowered, Americans will continue to get sick without apparent reason and run a higher risk of developing cancer," Averyt warned. "The CPSC has a mandate to protect consumers from unsafe products. This is certainly an unsafe product and the Commission must act without delay to reduce these toxic fumes to the lowest possible level."

Low-Income Energy Coalition Formed

Consumer, senior citizen, religious, state and local government, and industry groups recently joined forces to support continued funding for federal low-income energy programs.

Calling themselves the Low-Income Energy Coalition, these organizations are working to maintain funding for low-income weatherization and energy assistance programs at a level no lower than this year's program. In FY '82, Congress allocated \$1.88 billion for energy assistance and \$144 million for weatherization.

CFA Executive Director Stephen Brobeck, who helped organize the coalition, noted that the combined efforts of organizations including CFA, the National Consumer Law Center, the American Association of Retired Persons, the American Public Power Association, the U.S. Catholic Conference, the Edison Electric Institute, and the American Gas Association should be greater than the sum of past activities by these groups. "Working as a team expands the efficiency, scope and intensity of lobbying," Brobeck explained.

As part of its continuing assault on domestic programs, the Administration has proposed a 30% cutback in energy assistance and virtual elimination of low-income weatherization funding. Under pressure to reduce the federal deficit, even key Democratic committee leaders may agree to reductions in funding for both programs, according to Brobeck.

The insufficiency of this funding is evident from the fact that in 1982, less than half of all eligible families received assistance, and only 15% of low-income household energy costs were covered by this assistance.

Maintaining the programs at no lower than current levels is critically important because of sharp rises in home heating and electric costs. "Today, low income households are forced to spend more than 20% of their income on energy used in the home," Brobeck said, "and a significant number of poor families allocate more than 40% just to winter heating. As natural gas prices are decontrolled, their plight will worsen."

The unfairness of low-income energy cutbacks was underlined by a recent report, entitled *The Broken Promise*, prepared by the National Council of Senior Citizens. The Crude Oil Windfall Tax of 1980 contained guidelines for the level of funding to low-income fuel assistance. According to the NCSC study, the gap between this projected level and the current level of spending now exceeds \$1 billion annually.

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