



Legislative Bulletin..... November 13, 2013

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**H.R. 982 - Furthering Asbestos Claim Transparency (FACT) Act of 2013
(Farenthold, R-TX)**

Order of Business: [H.R. 982](#) is scheduled to be considered on the floor on November 13, 2013, subject to a structured rule. The text of the rule can be viewed [here](#).

Major Changes Since the Last Time This Legislation Was Before the House: Similar legislation, H.R. 4269 “Furthering Asbestos Claim Transparency Act of 2012”, was introduced in the 112th Congress and favorably reported by the Committee on the Judiciary. It was not considered by the full House of Representatives.

Summary: H.R. 982 requires transparency in the asbestos trust system and is designed to prevent fraud.

Asbestos trusts that were established through Federal bankruptcy reorganization due to liabilities resulting from asbestos claims would be required to submit quarterly reports to the bankruptcy court. The reports must contain information about each demand for payment that the trust has received, including the name and exposure history of the claimant, any amounts paid to the claimants, and the justification for the payments. The bill contains privacy protections and does not require the disclosure of the full social security information of the claimant or confidential medical history. The reports will be available on the court’s public docket. In addition, the bill also requires the trusts to provide information about claimant demands and payment information upon request to any party to litigation but allows the trust to recuperate reasonable expenses for providing the information.

Additional Background: The [Committee Report](#) states, “The purpose of the bill is to prevent fraud by requiring greater transparency for asbestos trusts so that future claimants who have been truly harmed by asbestos exposure will be able to receive compensation for their injuries.”

The Committee Report also states “asbestos is a commercial name given to six minerals—amosite, crocidolite, tremolite, actinolite, anthophyllite, and chrysotile—that were widely used in the United

States in industrial products throughout much of the 20th Century.” Asbestos has fire-retardant properties and was used in ship hulls and also for insulation in residential and industrial settings. Usage peaked in 1973 and then sharply declined after it was discovered to cause numerous diseases when the fibers are inhaled.

A rise in asbestos litigation caused almost 100 companies involved in the production and use of asbestos to go bankrupt. To prevent the companies from going out of business and to allow claimants to be paid, Congress changed the bankruptcy code in 1994 to authorize the creation of asbestos trusts in bankruptcy reorganization. These trusts serve as the exclusive mechanism to pay all known claimants during bankruptcy reorganization while allowing companies to continue business operations. The amount of money to be placed in the asbestos trust is determined by the bankruptcy court and must be acceptable to the majority of the known claimants. All claims are then paid through the asbestos trust and the reorganized debtor organization is shielded from future claims.

Committee Action: The bill was introduced on March 6, 2013. It was referred to the Committee on the Judiciary and favorably reported by the Committee on May 21, 2013, by a [vote](#) of 17-14.

Administration Position: The Executive Office of the President issued a [Statement of Administration Policy](#) in opposition to this bill.

Cost to Taxpayers: According to the Congressional Budget Office [cost estimate](#), “implementing H.R. 982 would have no significant impact on the federal budget.”

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: Yes, according to the [Congressional Budget Office](#) cost estimate, “H.R. 982 would impose a private-sector mandate as defined in UMRA by requiring asbestos trusts to submit quarterly reports. According to studies by the Government Accountability Office (GAO) and the RAND Corporation, only a small number of asbestos trusts currently exist. Further, the GAO study indicates that the information to be submitted under the bill is already tracked by many of the asbestos trusts. Therefore, CBO expects that the incremental cost to comply with the reporting requirements in the bill would fall below the annual threshold established in UMRA for private-sector mandates (\$150 million in 2013, adjusted annually for inflation).

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: According to the bill sponsor, “Congress has the power to enact this legislation pursuant to the following: Article 1 Section 8, clause 4 (to establish a uniform Rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States).” Congressman Farentholt’s statement in the Congressional Record can be viewed [here](#).

Outside Organizations: The U.S. Chamber of Commerce is “key voting” a vote in favor of this bill.

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Motion to Instruct Conferees on H.R. 2642 – Federal Agriculture Reform and Risk Management Act of 2013 (*Loebsack, D-IA*)

Order of Business: The motion to instruct (MTI) is scheduled to be considered on November 13, 2013.

Summary: The MTI moves that the House conferees agree to a 5-year authorization, through fiscal year 2018, of the Supplemental Nutrition Assistance Program (SNAP), which is contained in S. 954. The House passed version (H.R. 2642) authorized SNAP for three years, through fiscal year 2016. This is one of the most notable differences between S. 954 and H.R. 2642.

The MTI also moves that the House conferees agree to the Senate funding levels for the following programs:

- Biobased Markets Program;
- Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance;
- Biodiesel Fuel Education Program;
- Rural Energy for America Program;
- Biomass Research and Development; and
- Biomass Crop Assistance Program.

Background on Motions to Instruct: Members are able to offer MTIs after 10 legislative and 20 calendar days have passed since Conferees were appointed from both chambers, if a conference report hasn't been filed. Today is the first day that MTIs are able to be offered. MTI's are non-binding, meaning that there is no point of order against a conference report that does not follow a House-passed motion to instruct. No document is delivered to Conference after an MTI passes or fails. The MTI serves like a House Resolution as a way to get the House on record on a particular issue.

Background on Energy Programs Addressed: According to CBO, H.R. 2642 makes no changes to the baseline for current law, with respect to the energy title. However, CBO estimates H.R. 954 to increase direct spending of the energy title by \$880 million over the ten-year window.

Biobased Markets Program: The House-passed legislation extends the authorization through fiscal year 2018, and continues the authorization of \$2,000,000 per fiscal year. Under this program, federal agencies and contractors must purchase biobased products when the purchase price of procurement is more than \$10,000.¹

The Senate-passed legislation authorizes \$2,000,000 per fiscal to the appropriated, as well as \$3,000,000 per fiscal year in mandatory funding.

Biorefinery Assistance Program (BAP): The House-passed legislation extends the authorization through fiscal year 2018, and provides \$75,000,000 per fiscal year subject to appropriation. This program provides loan guarantees for the development of new and emerging technologies for advanced biofuels. Grantees are awarded up to 30 percent of total project costs while loans provide up to 80 percent of the cost, or \$250 million.²

The Senate-passed version provides for \$100,000,000 for fiscal year 2014, and \$58,000,000 for each fiscal year 2015 and 2016 in mandatory funding. The Senate-passed version also provides for \$150,000,000 per fiscal year in discretionary funding.

Biodiesel Fuel Education Program: The House-passed legislation extends the authorization through fiscal year 2018, and authorizes \$2,000,000 per fiscal year. This is another competitive grant program eligible to nonprofits for the educational of governmental and private entities that operate vehicle fleets.³

The Senate-passed legislation provides for \$1,000,000 per fiscal year in mandatory funding, and \$1,000,000 per fiscal year subject to appropriations.

Rural Energy for America Program: The House-passed legislation amends the program to establish a three-tiered application, evaluation and oversight process that varies based on the cost of the proposed project. The legislation also extends the authorization through fiscal year 2018, and provides \$45,000,000 per fiscal year. This program provides financial assistance (grants, etc) for the development and construction of renewable energy systems and for energy efficiency improvement projects.⁴

The Senate-passed legislation provides \$20,000,000 per fiscal year subject to appropriation, and \$68,200,000 per fiscal year in mandatory funding.

Biomass Research and Development: The House-passed legislation extends the authorization through fiscal year 2018, and authorizes for appropriation \$20,000,000 per fiscal year. This initiative was created in 2000, and provides grants, contracts, and financial assistance for the research and development that leads to commercial production of biofuels, biobased energy innovations, and the development of biobased feedstocks.⁵

¹ <http://www.crs.gov/pages/Reports.aspx?PRODCODE=R41985&Source=search>

² <http://www.crs.gov/pages/Reports.aspx?PRODCODE=R41985&Source=search>

³ <http://www.crs.gov/pages/Reports.aspx?PRODCODE=R41985&Source=search>

⁴ <http://www.crs.gov/pages/Reports.aspx?PRODCODE=R41985&Source=search>

⁵ <http://www.crs.gov/pages/Reports.aspx?PRODCODE=R41985&Source=search>

The Senate-passed legislation provides \$30,000,000 per fiscal year subject to appropriation, and \$26,000,000 per fiscal year in mandatory funding.

Biomass Crop Assistance Program: The House-passed legislation also extends the authorization through fiscal year 2018, and provides \$75,000,000 per fiscal year. This program provides financial assistance to those who own and/or operate agricultural and non-industrial private forest land and who wish to establish, produce, and deliver biomass feedstocks.⁶

The Senate-passed legislation provides \$38,600,000 per fiscal year in mandatory funding.

Administration Position: No Statement of Administration Policy is available.

Constitutional Authority: House rules do not require statement of constitutional authority for motions to instruct conferees.

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⁶ <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=ener&topic=bcap>