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CERTAIN PROVISIONS OF LAW RELATED TO ASBESTOS

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February 24, 2004

CERTAIN PROVISIONS OF LAW RELATED TO ASBESTOS

[As Amended Through P.L. 108–201, February 24, 2004]

ASBESTOS INFORMATION ACT OF 1988¹

SECTION 1. SHORT TITLE.

This Act may be cited as the “Asbestos Information Act of 1988”.

[15 U.S.C. 2607 note]

SEC. 2. SUBMISSION OF INFORMATION BY MANUFACTURERS.

Within 90 days after the date of the enactment of this Act, any person who manufactured or processed, before the date of the enactment of this Act, asbestos or asbestos-containing material that was prepared for sale for use as surfacing material, thermal system insulation, or miscellaneous material in buildings (or whose corporate predecessor manufactured or processed such asbestos or material) shall submit to the Administrator of the Environmental Protection Agency the years of manufacture, the types or classes of product, and, to the extent available, other identifying characteristics reasonably necessary to identify or distinguish the asbestos or asbestos-containing material. Such person also may submit to the Administrator protocols for samples of asbestos and asbestos-containing material.

[15 U.S.C. 2607 note]

SEC. 3. PUBLICATION OF INFORMATION.

Within 30 days after the date of the enactment of this Act, the Administrator shall publish a notice in the Federal Register that explains how, when, and where the information specified in section 2 is to be submitted. The Administrator shall receive and organize the information submitted under section 2 and, within 180 days after the date of the enactment of this Act, shall publish the information. In carrying out this section, the Administrator may not—

(1) review the information submitted under section 2 for accuracy, or

(2) analyze such information to determine whether it is reasonably necessary to identify or distinguish the particular asbestos or asbestos-containing material.

[15 U.S.C. 2607 note]

SEC. 4. DEFINITIONS.

In this Act:

¹The Asbestos Information Act of 1988 is Public Law 100–577 (Oct. 31, 1988; 102 Stat. 2901).

- (1) The term “asbestos” means—
 - (A) chrysotile, amosite, or crocidolite, or
 - (B) in fibrous form, tremolite, anthophyllite, or actinolite.
- (2) The term “asbestos-containing material” means any material containing more than one percent asbestos by weight.
- (3) The term “identifying characteristics” means a description of asbestos or asbestos-containing material, including —
 - (A) the mineral or chemical constituents (or both) of the asbestos or material by weight or volume (or both),
 - (B) the types or classes of the product in which the asbestos or material is contained.
 - (C) the designs, patterns, or textures of the product in which the asbestos or material is contained, and
 - (D) the means by which the product in which the asbestos or material is contained may be distinguishable from other products containing asbestos or asbestos-containing material.
- (4) The term “miscellaneous material” means building material on structural components, structural members, or fixtures, such as floor and ceiling tiles. The term does not include surfacing material or thermal system insulation.
- (5) The term “protocol” means any procedure for taking, handling, and preserving samples of asbestos and asbestos-containing material and for testing and analyzing such samples for the purpose of determining the person who manufactured or processed for sale such samples and the identifying characteristics of such samples.
- (6) The term “surfacing material” means material in a building that is sprayed on surfaces, troweled on surfaces, or otherwise applied to surfaces for acoustical, fireproofing, or other purposes, such as acoustical plaster on ceilings and fireproofing material on structural members.
- (7) The term “thermal system insulation” means material in a building applied to pipes, fittings, boilers, breeching, tanks, ducts, or other structural components to prevent heat loss or gain or water condensation, or for other purposes.

[15 U.S.C. 2607 note]

**PROVISIONS OF THE ASBESTOS HAZARD EMERGENCY
RESPONSE ACT OF 1986 (PUBLIC LAW 99-519) THAT
DID NOT AMEND THE TOXIC SUBSTANCES CONTROL
ACT**

* * * * *

SEC. 4. AUTHORIZATION.

* * * * *

(b)(1) Notwithstanding section 505(c) of the Asbestos School Hazard Abatement Act of 1984, for fiscal years 1988 and 1989 the Administrator shall provide financial assistance under section 505 of such Act in the form of grants to States or local educational agencies to carry out inspections for asbestos-containing material in school buildings and preparation of management plans for school buildings under this title.

(2) Not more than 2 percent of any grant awarded to a State pursuant to paragraph (1) may be used by the State for administrative purposes. For purposes of the preceding sentence, administrative purposes do not include salaries of persons who inspect for asbestos-containing material or assist in the preparation of management plans.

(3) In determining which local educational agencies to approve grants for, the Administrator shall take into account the financial need of the agency. Of the amount available under the Asbestos School Hazard Abatement Act of 1984 for fiscal years 1988 and 1989, not more than 10 percent may be obligated for the purposes described in this subsection.

[20 U.S.C. 4014 note]

SEC. 5. ASBESTOS TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the “Asbestos Trust Fund”, consisting of such amounts as may be transferred or credited to such Trust Fund as provided in this section.

(b) TRANSFERS TO TRUST FUND.—

(1) TRANSFER.—There are hereby transferred to the Asbestos Trust Fund amounts equivalent to—

(A) amounts received in the Treasury on or after January 1, 1987, as repayments of loans made under section 505 of the Asbestos School Hazard Abatement Act of 1984 (Public Law 98-377; 20 U.S.C. 4011 et seq.),

(B) amounts received as deposits from local educational agencies under section 207(a) of the Toxic Substances Control Act (as added by section 2 of this Act), and

(C)¹ amounts received as proceeds from any judgment recovered in any suit brought pursuant to section 508(a)(1) of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4017(a)(1)).

(2) MONTHLY TRANSFERS.—The amounts transferred by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Asbestos Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in such paragraph. Adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were more or less than the amounts required to be transferred.

(c) MANAGEMENT OF TRUST FUND.—

(1) INVESTMENT.—

(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Asbestos Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States and may be acquired—

(i) on original issue at the issue price, or

(ii) by purchase of outstanding obligations at the market price.

(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Asbestos Trust Fund may be sold by the Secretary of the Treasury at the market price.

(C) INTEREST OF CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Asbestos Trust Fund shall be credited to and form a part of the Trust Fund.

(2) [Repealed by section 1131(c) of Public Law 104–66 (109 Stat. 725).]

(d) EXPENDITURES FROM ASBESTOS TRUST FUND.—Amounts in the Asbestos Trust Fund shall be available, as provided by appropriation Acts, only for purposes of carrying out the Asbestos Hazards Abatement Assistance Program under section 505 of the Asbestos School Hazard Abatement Act of 1984.

(e) AUTHORITY TO BORROW.—

(1) IN GENERAL.—There are authorized to be appropriated to the Asbestos Trust Fund, as repayable advances, \$25,000,000 for each of fiscal years 1987, 1988, 1989, and 1990.

(2) REPAYMENT OF ADVANCES.—

(A) IN GENERAL.—Advances made under this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Asbestos Trust Fund.

(B) RATE OF INTEREST.—Interest on advances made under this subsection shall be at a rate determined by the Secretary (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining peri-

¹ So in law. Indention is incorrect.

ods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

[20 U.S.C. 4022]

ASBESTOS SCHOOL HAZARD ABATEMENT ACT OF 1984¹

TITLE V—ASBESTOS SCHOOL HAZARD ABATEMENT

SEC. 501. SHORT TITLE.

This title may be cited as the “Asbestos School Hazard Abatement Act of 1984”.

[20 U.S.C. 4011 note]

SEC. 502. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—The Congress finds that—

(1) exposure to asbestos fibers has been identified over a long period of time and by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be dislodged into the air, and (B) asbestos concentration far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the health of the school children and school employees who are exposed to such materials;

(7) the Department of Health and Human Services and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbestos fibers, but there is no systematic program for remedying hazardous conditions in schools;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in noncommercial workplace environments such as schools, school employees and students may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

¹The Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4011–4021) consists of title V of the Education for Economic Security Act (Public Law 98–377; Aug. 11, 1984; 98 Stat. 1267) and the amendments made by subsequent enactments.

(9) without a program of information distribution, technical and scientific assistance, and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this title to mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) PURPOSE.—It is the purpose of this title to—

(1) direct the Administrator of the Environmental Protection Agency to establish a program to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos hazards in schools;

(3) provide financial assistance for the abatement of asbestos threats to the health and safety of school children or employees; and

(4) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.¹

[20 U.S.C. 4011]

¹The Asbestos School Hazard Abatement Reauthorization Act of 1990 (P.L. 101-637; 104 Stat 4589) amended the Asbestos School Hazard Abatement Act of 1984 extensively. Section 2 of P.L. 101-637 provides:

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Environmental Protection Agency has estimated that more than forty-four thousand school buildings contain friable asbestos, exposing more than fifteen million school children and one million five hundred thousand school employees to unwarranted health hazards.

(2) All elementary and secondary schools are required by the Asbestos Hazard Emergency Response Act to inspect for asbestos, develop an asbestos management plan, and implement such plan.

(3) The Environmental Protection Agency has estimated it will cost local education agencies more than \$3,000,000,000 to comply with the Asbestos Hazard Emergency Response Act.

(4) Without a continuing program of information assistance, technical and scientific assistance, training, and financial support, many local educational agencies will be unable to carry out sufficient response actions to prevent the release of asbestos fibers into the air.

(5) Without the provisions of sufficient financial support, the cost to local educational agencies of implementing asbestos response actions may have an adverse impact in their educational mission.

(6) The effective regulation of interstate commerce for the protection of human health and the environment requires the continuation of programs to mitigate hazards of asbestos fibers and materials emitting such fibers.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To direct the Environmental Protection Agency to maintain a program to assist local schools in carrying out their responsibilities under the Asbestos Hazard Emergency Response Act.

(2) To provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos health hazards.

(3) To provide financial assistance to State and local agencies for training of persons involved with inspections and abatement of asbestos, for conducting necessary reinspections of school buildings, and for the actual abatement of asbestos threats to the health and safety of school children or employees.

(4) To assure that no employee of a local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

SEC. 503. ASBESTOS HAZARD ABATEMENT PROGRAM.

(a) **ABATEMENT PROGRAM.**—There is hereby established a program within the Environmental Protection Agency to be known as the Asbestos Hazards Abatement Program (hereinafter in this title referred to as “Program”).

(b) **DUTIES.**—The duties of the Administrator in implementing and effectuating the Program shall include—

(1) the compilation of medical, scientific, and technical information including, but not limited to—

(A) the health and safety hazards associated with asbestos materials;

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers; and

(C) the means of abating the threat posed by asbestos and asbestos containing materials;

(2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State and local educational agencies and to other institutions, including parent and employee organizations, for the purpose of carrying out activities described in this title;

(3) not later than November 15 of each year for which this title is authorized, the development and distribution of applications, or notifications to all local educational agencies of the availability of application forms including information for obtaining such forms; and

(4) the review of applications for financial assistance, and the approval or disapproval of such applications, in accordance with the provisions of section 505.

[20 U.S.C. 4012]

SEC. 504. STATE RECORDS AND PRIORITY LISTS.

(a) **RECORDS.**—The Governor of each State shall maintain records on—

(1) the presence of asbestos materials in school buildings of local educational agencies;

(2) the asbestos detection and abatement activities and other response actions conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials); and

(3) repairs made to restore school buildings to conditions comparable to those which existed before the abatement activities referred to in paragraph (2) were undertaken.

(b) **PRIORITY LIST.**—(1) Each year, in accordance with procedures established by the Administrator, the Governor of each State shall—

(A) submit to the Administrator a priority list of all schools under the authority of a local educational agency within the State, without regard to the public or private nature of the school involved, that are candidates for abatement activities and other response actions; and

(B) forward to the Administrator for each candidate for abatement activities and other response actions all applications

for financial assistance prepared by the local educational agencies in accordance with the provisions of section 505;¹ and

(2) The priority list shall rank the potential candidates for abatement action based on the nature and magnitude of the existing and potential exposure presented by the asbestos materials.

(3) For each school listed, the Governor shall certify that the statement of need contained in the application for assistance accurately reflects the financial resources available to the local educational agency for the asbestos abatement program.

(4) For the purpose of determining the adequacy of the financial resources available to a local educational agency for the abatement of asbestos threats the Governor shall, to the extent practicable, consider the following:

(A) A measure of financial need used by the State in which the local educational agency is located.

(B) The estimated per capita income of the locality of such agency or of those directly or indirectly providing financial support for such agency.

(C) The extent to which the local school millage rate falls above or below (i) the millage rate average of the State and (ii) the millage rate of other local educational agencies with comparable enrollment, per capita income, and resource base.

(D) The ratio, expressed as a percentage, of the estimated cost of the project to the total budget of the local educational agency.

(E) The borrowing capacity of the local educational agency.

(F)² Any additional costs to the local educational agency of meeting the special needs of disadvantaged students.

(G) Any other factor that demonstrates that the local educational agency has limited financial resources.

[20 U.S.C. 4013]

SEC. 505. FINANCIAL ASSISTANCE.

(a) ASSISTANCE PROGRAM.—There is hereby established within the Environmental Protection Agency an Asbestos Hazards Abatement Assistance Program (hereinafter in this Act referred to as the “Assistance Program”), which shall be administered in accordance with this section.

(b) APPLICATION SUBMISSION.—(1) Applications for financial assistance shall be submitted by a local educational agency to the Governor, or the Governor’s designee, who shall establish a priority list based on the criteria of section 504(b)(2).

(2) Pursuant to section 504, the Governor shall submit applications, together with the Governor’s report and priority list, to the Administrator who shall review and rank such applications pursuant to section 505(c)(2) and propose financing pursuant to the criteria of section 504(b)(4). The Administrator shall approve or disapprove applications for financial assistance no later than April 30 of each year.

(3) Within sixty days of receipt of the information described in section 504(b)(1), the Secretary of the Department of Education

¹ So in law. Probably should end with a period instead of “; and”.

² So in law. Indentation is incorrect.

shall review such information and, in the Secretary's discretion, provide to the Administrator comments and recommendations based upon the needs of local educational agencies for financial assistance. Within sixty days of receipt of the Secretary's report, or expiration of the time allowed for such report, the Administrator shall approve or disapprove applications for financial assistance.

(c) REVIEW OF APPLICATION.—(1) The Administrator shall provide financial assistance on a school-by-school basis to local educational agencies in accordance with other provisions of this section to carry out projects for—

(A) abating the threat posed by materials containing asbestos to the health and safety of children or employees;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring school buildings to conditions comparable to those existing before abatement activities were undertaken pursuant to this section.

(2) The Administrator shall review and list in priority order applications for financial assistance. In ranking applications, the Administrator shall consider—

(A) the priority assigned to the abatement program by the Governor pursuant to section 504(b)(2); and

(B)(i) the likelihood of release of asbestos fibers into a school environment;

(ii) any other evidence of the risk caused by the presence of asbestos including, but not limited to, situations in which there is a substantial quantity of dry loose asbestos-containing material on horizontal surfaces or asbestos-containing material is substantially deteriorated or damaged, and there is asbestos-containing material in an air plenum or in a high traffic area, confined space, or within easy reach of a passerby;

(iii) the extent to which the corrective action proposed by the applicant will reduce the exposure of school children and school employees; and

(iv) the extent to which the corrective action proposed by the applicant uses the least burdensome methods which protect human health and the environment.

(3) In determining whether an applicant is eligible for assistance, and the nature and amount of financial assistance, the Administrator shall consider the financial resources available to the applicant as certified by the Governor pursuant to section 504(b)(4).

(d) LIMITATION.—In no event shall financial assistance be provided under this title to an applicant if—

(1) the Administrator determines that such applicant has resources adequate to support an appropriate asbestos materials abatement program; or

(2) the applicant is not in compliance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).

(e) AMOUNT OF LOAN OR GRANT.—(1) An applicant for financial assistance may be granted a loan of up to 100 percent of the costs of an abatement program or, if the Administrator determines the applicant is unable to undertake and complete an asbestos materials abatement program with a loan, such applicant may also receive a grant (alone or in combination with a loan) not to exceed

50 percent of the total costs of abatement, in the amount which the Administrator deems necessary.

(2) In approving any grant, the Administrator shall state with particularity the reasons why the applicant is unable to undertake and complete the abatement program with loan funds.

(f) LOAN AGREEMENT.—Loans under this section shall be made pursuant to agreements which shall provide for the following:

(1) the loan shall not bear interest;

(2) the loan shall have a maturity period of not more than twenty years (as determined by the Administrator) and shall be repayable during such period at such times and in such amounts as the Administrator may specify in the loan agreement;

(3) repayment shall be made to the Secretary of the Treasury for deposit in the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act (Public Law 99-519; 20 U.S.C. 4022); and

(4) such other terms and conditions that the Administrator determines necessary to protect the financial interest of the United States.

(g) APPLICATION REQUIREMENTS.—(1) No financial assistance may be provided under this section unless an application has been submitted to the Administrator in accordance with such procedures as may be developed by the Administrator.

(2) The Administrator shall not approve an application unless—

(A) the application contains such information as the Administrator may require, including but not limited to information describing—

(i) the nature and extent of the asbestos problem for which the assistance is sought;

(ii) the asbestos content of the material to be abated;

(iii) the methods which will be used to abate the asbestos materials;

(iv) the amount and type of financial assistance requested;

(v) a description of the financial resources of the local educational agency; and

(vi) a justification for the type and amount of the financial assistance requested.

(B) the application contains a certification that—

(i) the local educational agency has prepared and is implementing an asbestos management plan, as required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.); and

(ii) all activities to be conducted with the financial assistance will be performed by individuals trained and accredited in conformance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) and regulations promulgated under that title;

(C) the application contains assurances that the local educational agency will furnish such information as is necessary for the Administrator to make the report required by section 507 of this title.

(3) No financial assistance may be provided by the Administrator under this section for projects described in subsection (a)(2) on which abatement action was completed prior to January 1, 1984.

(4) Except as provided in section 512(b)(1), in approving applications the Administrator shall provide assistance to the local educational agencies having the highest priority among applications being considered in order of ranking until the appropriated funds are expended.

[20 U.S.C. 4014]

SEC. 506. ADMINISTRATIVE PROVISIONS.

(a) REGULATIONS.—The Administrator shall promulgate rules and regulations as necessary to implement the authorities and requirements of this title.

(b) PROCEDURES.—The Administrator also shall establish procedures to be used by local educational agencies, in programs for which financial assistance is made available under section 505, for—

- (1) abating asbestos materials in school buildings;
- (2) replacing the asbestos materials removed from school buildings with other appropriate building materials; and
- (3) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken.

(c) RELATIONSHIP TO OTHER LAWS.—Nothing contained in this title shall be construed, interpreted, or applied to diminish in any way the level of protection required under any other State or Federal worker protection or other applicable laws.

(d) OTHER AUTHORITY.—In order to effectuate the purposes of this title, the Administrator may also adopt such other procedures, standards, and regulations as the Administrator deems necessary, including—

- (1) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducting such tests;
- (2) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and
- (3) periodic reporting with respect to the activities that have taken place using funds loaned or granted under this title.

[20 U.S.C. 4015]

SEC. 507. ANNUAL REPORT.

ANNUAL REPORT¹

During each calendar year until 1999, the Administrator shall prepare and submit, not later than June 1 of each year, to the Committee on Environment and Public Works of the Senate and to the Committee on Energy and Commerce of the House of Rep-

¹Section 14(7) of P.L. 101-637 amended the section heading of section 507 without striking out the old section heading.

representatives a report on the loan and grant program authorized by section 505 of this title. The report shall—

- (1) describe the number of applications received;
- (2) describe the number of loans and grants made in the preceding calendar year and specify each applicant for and recipient of a loan or grant;
- (3) specify the number of loan or grant applications which were disapproved during the preceding calendar year and describe the reasons for such disapprovals;
- (4) describe the types of programs for which loans or grants were made;
- (5) specify the estimated total costs of such programs to the recipients of loans or grants and specify the amount of loans or grants made under the program authorized by this section; and
- (6) estimate the number of schools still in need of assistance and the amount of resources needed by such schools, categorized by State, to abate all remaining asbestos hazards.

[20 U.S.C. 4016]

SEC. 508. RECOVERY OF COSTS.

(a) LOAN CONDITION.—(1) As a condition of the award of any financial assistance under section 505, the recipient of any such loan or grant shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to the recipient for the costs of any activities undertaken by the recipient under such section.

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar suit on its own behalf, the proceeds from a judgment recovered by the recipient in such suit) shall be used to repay to the United States, by deposit in the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act (20 U.S.C. 4022), to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

(A) the amount (i) outstanding on any loan and (ii) of any grant made to the recipient; and

(B) an amount equal to the interest which would have been charged on such loan were the loan made by a commercial lender at prevailing interest rates (as determined by the Administrator).

(b) EXPEDITIOUS RECOVERY.—The Attorney General shall, where appropriate, proceed in an expeditious manner to recover the amounts expended by the United States to carry out this title from the persons identified by the Attorney General as being liable for such costs.

[20 U.S.C. 4017]

SEC. 509. EMPLOYEE PROTECTION.

No State or local educational agency receiving assistance under this title may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information con-

cerning any asbestos problem in the school buildings within the jurisdiction of such agency.

[20 U.S.C. 4018]

SEC. 510. AFFECT ON RIGHTS UNDER OTHER LAWS.

Except as otherwise provided in section 508, nothing in this title shall—

- (1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or
- (2) affect the rights of any party under any other law.

[20 U.S.C. 4019]

SEC. 511. DEFINITIONS.

For purposes of this title:

- (1) The term “asbestos” means—
 - (A) chrysotile, amosite, or crocidolite; or
 - (B) in fibrous form, tremolite, anthophyllite, or actinolite.
- (2) The term “Attorney General” means the Attorney General of the United States.
- (3) The term “threat” or “hazard” means that an asbestos material is friable or easily damaged, or within reach of students or employees or otherwise susceptible to damage (including damage from water, vibration, or air circulation) which could result in the dispersal of asbestos fibers into the school environment.
- (4) The term “local educational agency” means—
 - (A) any local educational agency as defined in section 9101 of the Elementary and Secondary Education Act of 1965; and
 - (B) the governing authority of any nonprofit elementary or secondary school.
- (5) The term “nonprofit elementary or secondary school” means—
 - (A) any elementary or secondary school as defined in section 9101 of the Elementary and Secondary Education Act of 1965 owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and
 - (B) any school of any agency of the United States.
- (6) The term “school buildings” means—
 - (A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;
 - (B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;
 - (C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph.

(7) The term "Administrator" means the Administrator of the Environmental Protection Agency, or the Administrator's designee.

(8) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Bureau of Indian Affairs.

(9) The term "response action" has the meaning given such term by section 202(11) of the Toxic Substances Control Act (15 U.S.C. 2642(11)).

[20 U.S.C. 4020]

SEC. 512. AUTHORIZATION.

(a)(1) There are hereby authorized to be appropriated for the asbestos abatement program not more than \$200,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995. In addition, for such purposes and for each of such fiscal years there are authorized to be appropriated out of the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act of 1986 (20 U.S.C. 4022) such sums as are contained in such trust fund in each of such fiscal years.

(2) The sums appropriated under this title shall remain available until expended.

(b)(1) A State with qualified applicants shall receive no less than one-half of 1 per centum of the sums appropriated under this title or the total of the amounts requested by such applicants, whichever is less. Those amounts available in each fiscal year under this paragraph shall be obligated before the end of that fiscal year. For the purposes of this paragraph the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Bureau of Indian Affairs and, taken together, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Of those sums appropriated for the implementation of this title, not more than 5 percent may be reserved during each fiscal year for the administration of this title and for programs including (but not limited to) the following:

(A) The establishment of training centers for contractors, engineers, school employees, parents, and other personnel to provide instruction, in accordance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.), on asbestos assessment and abatement.

(B) The development and dissemination of abatement guidance documents to assist in evaluation of potential hazards and the determination of proper abatement programs.

(C) The development of rules and regulations regarding inspection, reporting, and recordkeeping.

(D) The development of a comprehensive testing and technical assistance program.

(3) Of those sums appropriated for any fiscal year for the implementation of this title, the Administrator may use not more than 5 percent to provide grants to States for the following purposes:

(A) Assisting local educational agencies in performing the periodic reinspections and training activities required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).

(B) Establishing and maintaining programs to accredit personnel performing asbestos inspections and response actions.

[20 U.S.C. 4021]

**ASBESTOS SCHOOL HAZARD DETECTION AND CONTROL
ACT OF 1980¹**

SHORT TITLE

SECTION 1. This Act may be cited as the “Asbestos School Hazard Detection and Control Act of 1980”.

[20 U.S.C. 3601 note]

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) exposure to asbestos fibers has been identified over a long period of time and by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be dislodged into the air, and (B) asbestos concentrations far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the health of the school children and school employees who are exposed to such materials;

(7) the Department of Health and Human Services and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbestos fibers, but there is no systematic program for identifying hazardous conditions in schools or for remedying those conditions;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in noncommercial workplace environments such as schools, school employees and students may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

¹The Asbestos School Hazard Detection and Control Act of 1980 (20 U.S.C. 3601–3611) is Public Law 96–270 (June 14, 1980; 94 Stat. 487).

(9) without an improved program of information distribution, technical and scientific assistance, and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this Act to identify and mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) It is the purpose of this Act to—

(1) direct the Secretary of Education to establish a task force to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) require States receiving administrative funds for any applicable program (as defined under section 400(c)(1)(A)¹ of the General Education Provisions Act) to prepare a plan describing the manner in which information relating to programs established under this Act shall be distributed to local educational agencies;

(3) provide scientific, technical, and financial assistance to State educational agencies and local educational agencies to enable them to conduct an asbestos detection program to identify asbestos hazards in schools;

(4) provide loans to local educational agencies for the mitigation of asbestos hazards which constitute an imminent hazard to the health and safety of school children and employees; and

(5) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

[20 U.S.C. 3601]

TASK FORCE

SEC. 3. (a)(1) There is established a task force to be known as the Asbestos Hazards School Safety Task Force (hereinafter in this Act referred to as “Task Force”). The Task Force shall be composed of ten members, who shall be appointed by the Secretary within 30 days after the effective date of this Act, as follows:

(A) One representative of the Department of Education, recommended by the Secretary of Education.

(B) One representative of the Department of Health and Human Services.

(C) One representative of the National Cancer Institute.

(D) One representative of the Environmental Protection Agency, recommended by the Administrator of such agency.

(E) One representative of the National Institute of Environmental Health Sciences.

(F) One representative of the Occupational Safety and Health Administration, recommended by the Secretary of Labor.

(G) Four representatives from among organizations concerned with education and health.

¹ Probably should refer to section 400(c)(1).

Members of the Task Force shall be individuals who have knowledge of the medical problems associated with exposure to asbestos, or individuals who are familiar with procedures for the following activities: the containment or removal of asbestos from buildings; the replacement of asbestos materials removed from school buildings with other appropriate building materials; and the restoration of such buildings to conditions comparable to those existing before such containment or removal was carried out.

(2) The Secretary shall designate a chairman of the Task Force from among its members.

(3) Members shall be appointed for the life of the Task Force. Any vacancy in the Task Force shall be filled in the same manner in which the original appointment was made.

(b)(1) The Task Force shall meet, no later than 30 days after the appointment of its members, at the call of the chairman of the Task Force.

(2) Five members of the Task Force shall constitute a quorum for purposes of conducting the business of the Task Force, but a lesser number may hold hearings.

(c)(1) Members of the Task Force who are not full-time officers or employees of the Federal Government shall receive compensation at a rate determined by the Secretary, but not to exceed the daily equivalent of the maximum annual rate of pay in effect for grade GS-16 of the General Schedule, for each day (including traveltime) during which they are engaged in the performance of the duties of the Task Force.

(2) While away from their homes or regular places of business in the performance of the duties of the Task Force, all members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d)(1) Upon request of the Task Force, the Secretary shall make available to the Task Force personnel of the Department of Education to assist the Task Force in carrying out its duties.

(2) The Task Force may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) The duties of the Task Force shall include—

(1) the compilation of medical, scientific, and technical information explaining—

(A) the health and safety hazards associated with asbestos materials; and

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers;

(2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State educational agencies and to local educational agencies for the purpose of assisting such agencies in carrying out activities described in this Act;

(3) the review of applications for grants and loans under sections 5 and 6 of this Act, and the submission to the Secretary of recommendations respecting the approval or disapproval of such applications;

(4) the review of any guidelines established by the Environmental Protection Agency for identifying those schools in which exposure to asbestos fibers constitutes a health problem and for taking appropriate corrective actions at such schools, in order to determine whether any modifications of such guidelines should be recommended to the Secretary under paragraph (5); and

(5) providing the Secretary with assistance in formulating standards and procedures under section 7 of this Act by—

(A) submitting to the Secretary relevant information concerning the results of the review made under paragraph (4) of this subsection; and

(B) recommending such modifications to the guidelines referred to in such paragraph as the Task Force considers appropriate.

In carrying out its duties under this subsection, the Task Force shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

(f) The Task Force shall cease to exist at the end of the 180-day period beginning on the date that the authority of the Secretary to make loans under section 6 has expired.

[20 U.S.C. 3602]

STATE PLAN

SEC. 4. (a) Not later than six months after the effective date of this Act, the State educational agency of any State which receives administrative funds for any applicable program (as defined under section 400(c)(1)(A)¹ of the General Education Provisions Act) shall submit to the Secretary a plan which—

(1) describes the manner in which the State, not later than nine months after the effective date of this Act, shall distribute to local educational agencies within that State's jurisdiction information describing—

(A) the programs established under this Act;

(B) the health hazards associated with exposure to asbestos fibers; and

(C) the procedures established by the Secretary under section 7 for carrying out activities under programs under this Act, and such other relevant information regarding such activities as the State considers desirable;

(2) contains a general description of the content of the information to be distributed in accordance with paragraph (1) and provides assurances that the State shall continually revise such information and distribute such revised material to local educational agencies to ensure that such agencies have available to them the most recent material available with regard to the matters referred to in paragraph (1);

(3) describes the procedures to be used by the State for maintaining records on—

(A) the presence of asbestos materials in school buildings of local educational agencies;

¹ Probably should refer to section 400(c)(1).

(B) the asbestos detection, containment, or removal activities conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials); and

(C) repairs made to restore school buildings to conditions comparable to those existing before the containment or removal activities referred to in subparagraph (B) were undertaken; and

(4) designates a State agency or other administrative unit with the responsibility for submitting to the Secretary the reports described in subsection (b) of this section and provides assurances that such agency or unit shall carry out the duties specified under subsection (b).

(b) Not later than six months after the submission of the plan described in subsection (a), and each six months thereafter during the two-year period beginning on the effective date of this Act, the State agency or unit designated under paragraph (4) of subsection (a) shall submit to the Secretary a report which describes the actions taken by the State in accordance with its plan under such subsection.

[20 U.S.C. 3603]

ASBESTOS HAZARDS DETECTION PROGRAM

SEC. 5. (a)(1)(A) The Secretary may make grants to local educational agencies for the Federal share of the costs of carrying out an asbestos detection program meeting the standards established by the Secretary under section 7(a)(1) of this Act. Grants may be made under this section only during the two-year period beginning on the effective date of this Act.

(B) The Secretary may make grants to State educational agencies for the Federal share of the costs of carrying out any asbestos detection program if—

(i) the State, through the State educational agency or some other appropriate State agency, is making grants to local educational agencies for asbestos hazard detection programs, and

(ii) such programs meet the standards established by the Secretary under section 7(a)(1) of this Act.

(C) Grants may be made under this section only during the two-year period beginning after the date of enactment of this Act.

(2) Subject to the second sentence of this paragraph, the Federal share of the costs referred to in paragraph (1) shall be 50 percent. Upon a determination by the Secretary that an applicant has limited fiscal resources and would be unable to participate in the program under this section without receiving from the Federal Government, as its Federal share of such costs, an amount greater than the amount permitted under the first sentence of this paragraph, the Secretary may increase the Federal share which may be paid to such applicant by such amount as the Secretary considers appropriate to permit the applicant to participate in the program.

(b)(1) No grant may be made under this section unless an application has been submitted to and approved by the Secretary,

after consultation with the Task Force. The Secretary may not approve an application unless the application—

(A) contains a description of the methods to be used by the local educational agency, or in the case of an application by the State educational agency the methods to be used by the local educational agencies receiving grants from the State, to determine whether hazardous concentrations of asbestos fibers or materials emitting such fibers exist in school buildings under the jurisdiction of such agency;

(B) contains an estimate of the total cost of the detection program, including such detailed descriptions of the costs of each component of the program as the Secretary may require;

(C) designates the party which shall conduct the testing for the detection program and describes such party's qualifications for conducting such testing;

(D) contains assurances that the program shall be carried out in accordance with standards established by the Secretary under section 7(a)(1) and that any party employed to conduct such testing shall satisfy the competency standards established under such section; and

(E) contains such other information or assurances as the Secretary may require.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No grant may be awarded by the Secretary under this section for asbestos hazards detection programs conducted before the effective date of this Act unless the applicant has submitted an application to the Secretary—

(A) containing the information required under paragraph (1); and

(B) providing assurances that any program for which a grant is sought was carried out in a manner which substantially conforms to the requirements established by the Secretary under section 7(a)(1).

No grant may be awarded under this section for any asbestos hazards detection program completed before January 1, 1976.

(4) After reviewing the application submitted under this section, together with any recommendations made by the Task Force, the Secretary shall determine the amount of any grant to be awarded under this section. Funds may be awarded by the Secretary for the administrative costs incurred in the preparation and supervision of the asbestos detection program and for the following activities:

(A) Visual inspections of school buildings.

(B) The sampling of building and insulation materials.

(C) Appropriate tests to determine the level of asbestos content in suspected materials, and tests determined to be essential to detect the likelihood of imminent danger to persons within school buildings.

(c) Local and State educational agencies receiving grants under this section shall file a report with the Secretary, not later than 120 days after the award of such grant, describing the detection activities which were undertaken, the results of the asbestos detection program, and plans for mitigating any imminent hazards

which were detected by the testing. The report shall include a detailed accounting of the funds used to carry out the detection program.

(d) During the period in which grants may be made under this section, not more than 20 percent of the funds appropriated to carry out this section may be made available by the Secretary to the Task Force to conduct education and technical assistance programs related to the detection of asbestos hazards in school buildings and the implementation of appropriate actions to mitigate such hazards.

[20 U.S.C. 3604]

ASBESTOS HAZARDS CONTROL LOAN PROGRAM

SEC. 6. (a)(1) There is established within the Department of Education an Asbestos Hazards Control Loan Program (hereinafter in this Act referred to as the "Loan Program"), which shall be administered by the Secretary in accordance with this section.

(2) The Secretary may make loans under this section to local educational agencies in an amount equal to 50 percent of the costs of carrying out projects for—

(A) the containment or removal of any materials containing asbestos in school buildings in which such materials pose an imminent hazard to the health and safety of children or employees;

(B) the replacement of the asbestos materials removed from school buildings with other appropriate building materials; and

(C) making repairs which the Secretary determines to be necessary to restore school buildings to conditions comparable to those existing before containment or removal activities were undertaken under subparagraph (A).

Loans may be made under this section only for projects affecting more than 2,500 square feet of surface and in which the asbestos material to be contained or removed consists of a minimum asbestos level, as determined by the Secretary under section 7(a)(2).

(3) If the Secretary determines that an applicant has limited fiscal resources and would be unable to carry out the projects described in paragraph (2) without receiving a loan under this section for an amount greater than the amount permitted under such paragraph, the Secretary may increase the amount of the loan payable to such applicant to an amount the Secretary considers appropriate to enable the applicant to carry out such projects.

(b) Loans under this section shall be made pursuant to loan agreements which shall provide for the following terms:

(1) The loan shall not bear any interest except as otherwise provided under paragraph (5).

(2) The loan shall have a maturity period of not more than 20 years (as determined by the Secretary) and shall be repayable during such period at such times and in such amounts as the Secretary may specify in the loan agreement.

(3) Repayment of the loan shall be made to the Secretary of the Treasury for deposit in the general fund of the Treasury.

Such loans shall be subject to such other terms and conditions as the Secretary may establish for the protection of the financial interest of the United States and in furtherance of the purposes of this Act.

(c)(1) No loan may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force, within the two-year period beginning on the effective date of this Act. The Secretary may not approve an application unless—

(A) the application contains such information as the Secretary may require, including information describing—

(i) the nature of the asbestos problem for which the loan is sought;

(ii) the asbestos content of the material to be contained or removed by the local educational agency, as determined under preliminary testing which was conducted in accordance with the standards established by the Secretary under section 7(a)(1), or, in the case of testing conducted before the effective date of this Act, was conducted in a manner which substantially conforms to such standards; and

(iii) the methods which will be used to contain or remove the asbestos materials, in accordance with section 7(b) of this Act, and any other pertinent details relating to the project or projects to be conducted by the applicant (as described in subsection (a)(2)); and

(B) the application contains assurances that—

(i) any employee engaged in any activity to carry out programs under this section shall be notified in writing by the local educational agency conducting the program of the hazards of working with asbestos, and shall be required to utilize all appropriate safety procedures to minimize health risks;

(ii) no child or school employee shall be permitted in the vicinity of any asbestos containment or removal activity; and

(iii) the local educational agency shall pay employees engaged in containment, removal, or replacement activities to carry out programs under this section at reasonable rates of pay, as established by the Secretary on the basis of prevailing wage rates in the location of such work.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No loans may be made by the Secretary under this section for projects described in subsection (a)(2) which commenced before the availability of loans under the Loan Program unless the local educational agency submits to the Secretary an application which—

(A) meets the requirements of paragraph (1); and

(B) contains assurances that any work already completed by the applicant has been carried out in substantial conformity with section 7(b).

No loan may be awarded under this section for any project described in subsection (a)(2) which was completed before January 1, 1976.

(d) During each of the three calendar years after the year in which this Act is enacted, the Secretary shall submit before February 1 of such year a report to the appropriate committees of the House of Representatives and the Senate, which shall—

(1) describe the number of loans made in the preceding calendar year and specify each applicant for and recipient of a loan;

(2) describe the nature of the asbestos problem of each applicant;

(3) describe the types of programs for which loans were made;

(4) specify the estimated total costs of such programs to the recipients of loans and specify the amount of loans made under the Loan Program; and

(5) specify the number of loan applications which were disapproved during the preceding calendar year and describe the reasons for such disapprovals.

[20 U.S.C. 3605]

STANDARDS AND SAFETY PROCEDURES

SEC. 7. (a)(1) Within 120 days after the first meeting of the Task Force, and after consultation with the Task Force, the Secretary shall establish and distribute to the State agency or unit designated under section 4(a)(4)—

(A) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducting such tests;

(B) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and

(C) standards for determining which contractors are qualified to carry out the testing and evaluation described in this paragraph.

(2) After consulting with the Task Force, the Secretary shall establish criteria to be used for determining eligibility for loans under section 6 of this Act. The criteria shall be based on the assessment of the extent of the health hazards posed by the presence of asbestos fibers in schools, as determined in accordance with standards under paragraph (1)(B) of this subsection.

(b) After reviewing recommendations submitted to the Secretary by the Task Force under section 3(e)(5), the Secretary, with the concurrence of the Task Force, shall by regulation establish—

(1) procedures to be used by local educational agencies, in programs for which loans are made under section 6, for—

(A) containing and removing asbestos materials in school buildings;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken; and

(2) standards for determining which contractors are qualified to carry out the activities referred to in paragraph (1).

(c) In carrying out his duties under this section, the Secretary shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

[20 U.S.C. 3606]

RECOVERY OF COSTS BY THE UNITED STATES

SEC. 8. (a)(1) As a condition of the award of any grant under section 5 or loan under section 6, the recipient of any such grant or loan shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to the recipient for the costs of any activities undertaken by the recipient under such sections.

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar suit on its own behalf, the proceeds from any judgment recovered by the recipient in such suit) shall be used to repay to the United States, to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

(A) the amount of any grant made to the recipient under section 5;

(B) the amount outstanding on any loan made to the recipient under section 6; and

(C) an amount equal to the interest which would have been charged on such loan were the loan made by a commercial lender at prevailing interest rates (as determined by the Secretary).

(b) The Attorney General shall conduct an investigation to determine whether, by using all available means, the United States should or could recover, from any person determined by the Attorney General to be liable for such costs, the amounts expended by the United States to carry out this Act. Within one year after the effective date of this Act, the Attorney General shall submit to the Congress a report containing the results of the study, together with any appropriate recommendations.

(c) If the Attorney General determines in the report under subsection (b) that the United States should seek to recover the amounts expended by the United States to carry out this Act, the Attorney General shall proceed in an expeditious manner to recover such amounts from the persons referred to in subsection (b).

[20 U.S.C. 3607]

EMPLOYEE PROTECTION

SEC. 9. No State or local educational agency receiving assistance under this Act may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisdiction of such agency.

[20 U.S.C. 3608]

RETAINED RIGHTS

SEC. 10. Except as otherwise provided in section 8, nothing in this Act shall—

- (1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or
- (2) affect the rights of any party under any other law.

[20 U.S.C. 3609]

DEFINITIONS

SEC. 11. For purposes of this Act—

- (1) the term “asbestos” means—
 - (A) chrysotile, amosite, or crocidolite; or
 - (B) in fibrous form, tremolite, anthophyllite, or actinolite;
- (2) the term “Attorney General” means the Attorney General of the United States;
- (3) the term “imminent hazard to the health and safety” means, for purposes of section 6, that an asbestos material is, according to standards established by the Secretary, friable or easily damaged, or within easy reach of students or otherwise susceptible to damage (including damage from water or air circulation) which could result in the dispersal of asbestos fibers into the school environment;
- (4) the term “local educational agency” means—
 - (A) any local educational agency as defined in section 198(a)(10)¹ of the Elementary and Secondary Education Act of 1965; and
 - (B) the governing authority of any nonprofit elementary or secondary school;
- (5) the term “nonprofit elementary or secondary school” means—
 - (A) any elementary or secondary school (as defined in section 198(a)(7)¹ of the Elementary and Secondary Education Act of 1965) owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and
 - (B) any school of any agency of the United States;
- (6) the term “school buildings” means—
 - (A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;
 - (B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;
 - (C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

¹Public Law 103-382 amended section 198 in its entirety and redesignated it as section 14101 (20 U.S.C. 8801).

- (D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph;
- (7) the term "Secretary" means the Secretary of Education, or his designee;
- (8) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Bureau of Indian Affairs, and the Office of Overseas Schools of the Department of Defense; and
- (9) the term "State educational agency" has the same meaning given such term by section 198(a)(17)¹ of the Elementary and Secondary Education Act of 1965.

[20 U.S.C. 3610]

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a)(1) There are authorized to be appropriated—

(A) for the asbestos detection program under section 5, for the fiscal year ending September 30, 1981, and for the succeeding fiscal year, a total of not more than \$22,500,000; and

(B) for the asbestos hazards control loan program under section 6, not more than \$75,000,000 for the fiscal year ending September 30, 1981, and \$75,000,000 for the fiscal year ending September 30, 1982.

(2) Sums appropriated under paragraph (1) of this subsection shall remain available for obligation until September 30, 1983.

(b) Programs under this Act shall be considered automatically eligible for the one-year contingent extension under section 414² of the General Education Provisions Act.

(c) If funds appropriated to carry out this Act are insufficient to pay the total amount required to make all the grants and loans authorized under this Act, the Secretary shall establish criteria to be used in determining which applicants for grants or loans under this Act have the greatest financial need for receiving funds under this Act and shall make determinations regarding the approval of applications for such grants or loans in accordance with such criteria.

(d) Notwithstanding any other provision of this Act, the authority of the Secretary to enter into agreements, or to make payments, under this Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

[20 U.S.C. 3611]

¹ See footnote 1 on the previous page.

² Section 414 was redesignated as section 422 by section 212(b)(1) of Public Law 103-382.