

[Senate, November 25, 1985 — Substituted by the Senate (McGovern) as a new text of Senate Bill, No. 84, amended, "An Act providing financial assistance to cities, towns, and regional school districts for the removal, containment or encapsulation of asbestos in public schools".]

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Five.

1 SECTION 1. The board of education is hereby authorized to
2 expend a sum not to exceed twenty-five million dollars for a
3 program to provide grants to reimburse cities, towns, counties and
4 regional school districts for the removal, containment, or
5 encapsulation of asbestos found in public school buildings;
6 provided, that said city, town, county or regional school district
7 has submitted for approval an application and cost estimate to
8 the state board of education; and provided, further, that said
9 removal, containment, or encapsulation has been conducted in
10 accordance with procedures set forth by the special legislative
11 commission on asbestos, established by chapter fifty-eight of the
12 resolves of nineteen hundred and seventy-five and by the division
13 of occupational hygiene; and provided, further, that said
14 reimbursements are in accordance with the estimates approved by
15 the board and are for work contracted prior to June thirtieth,
16 nineteen hundred and eighty-nine.

1 SECTION 2. The state treasurer may borrow from time to
2 time on the credit of the commonwealth such sums of money as
3 may be necessary for the purpose of meeting the payments
4 authorized by section one of this act and may issue and renew
5 from time to time notes of the commonwealth therefor, bearing
6 interest payable at such time and at such rates as shall be fixed
7 by the state treasurer. Such notes shall be issued and may be
8 renewed one or more times for such terms, not exceeding one year,
9 as the governor may recommend to the general court in
10 accordance with Section 3 of Article LXII of the Amendments

11 to the Constitution of the Commonwealth, but the final maturities
12 of such notes, whether the original or renewal, shall not be later
13 than June thirtieth, nineteen hundred and ninety.

14 Notes and interest thereon issued under the authority of this
15 section, notwithstanding any other provisions of this act, shall be
16 general obligations of the commonwealth.

1 SECTION 3. To meet the expenditures necessary in carrying
2 out the provisions of section one, the state treasurer shall, upon
3 request of the governor, issue and sell bonds of the commonwealth
4 to an amount to be specified by the governor from time to time,
5 but not exceeding in the aggregate twenty-five million dollars.

6 All bonds issued by the commonwealth, as aforesaid, shall be
7 designated on their face, "Asbestos Removal and Containment
8 In Public Schools Loan, Act of 1985," and shall be issued for such
9 maximum term of years, not exceeding twenty years, as the
10 governor may recommend to the general court pursuant to
11 Section 3 of Article LXII of the Amendments to the Constitution
12 of the Commonwealth, provided, however, that all such bonds
13 shall be payable not later than June thirtieth, two thousand and
14 ten. All interest and payments on account of principal of such
15 obligations shall be payable from the General Fund. Bonds and
16 the interest thereon issued under the authority of this section shall,
17 notwithstanding any other provisions of this act, be general
18 obligations of the commonwealth.

1 SECTION 4. The state board of education is hereby
2 authorized to expend a sum not to exceed five million dollars for
3 a program for removing, containing or encapsulating asbestos
4 found in any private elementary or secondary school. Said
5 program shall make direct payment to the contractors removing,
6 containing or encapsulating asbestos, provided that the governing
7 body of said school has submitted an application and cost estimate
8 to said board of education. Said application shall be on such form
9 as approved by the commissioner of education and shall contain
10 instructions and procedures established in cooperation with the
11 division of occupational hygiene. Said board of education shall,
12 jointly with the said division of occupational hygiene, promulgate
13 such rules and regulations as necessary to administer the program,

14 and provided, further, that no payments under this section shall
15 be made directly to any private school.

1 SECTION 5. The state treasurer may borrow from time to
2 time on the credit of the commonwealth such sums of money as
3 may be necessary for the purpose of meeting the payments
4 authorized by section four and may issue and renew from time
5 to time notes of the commonwealth therefor, bearing interest
6 payable at such time and at such rates as shall be fixed by the
7 state treasurer. Such notes shall be issued and may be renewed
8 one or more times for such terms, not exceeding one year, as the
9 governors may recommend to the general court in accordance
10 with Section 3 of Article LXII of the Amendments to the
11 Constitution of the Commonwealth, but the final maturities of
12 such notes, whether the original or renewal, shall not be later than
13 June thirtieth, nineteen hundred and ninety.

14 Notes and interest thereon issued under the authority of this
15 section, notwithstanding any other provisions of this act, shall be
16 general obligations of the commonwealth.

1 SECTION 6. To meet the expenditures necessary in carrying
2 out the provisions of section four, the state treasurer shall, upon
3 request of the governor, issue and sell bonds of the commonwealth
4 to an amount to be specified by the governor from time to time,
5 but not exceeding the aggregate five million dollars.

6 All bonds issued by the commonwealth, as aforesaid, shall be
7 designated on their face, "Asbestos Removal and Containment
8 In Private Schools Loan, Act of 1985," and shall be issued for
9 such maximum term of years, not exceeding twenty years, as the
10 governor may recommend to the general court pursuant to
11 Section 3 of Article LXII of the Amendments to the Constitution
12 of the Commonwealth, provided, however, that all such bonds
13 shall be payable not later than June thirtieth, two thousand and
14 ten. All interest and payments on account of principal of such
15 obligations shall be payable from the general fund. Bonds and the
16 interest thereon issued under the authority of this section shall,
17 notwithstanding any other provisions of this act, be general
18 obligations of the commonwealth.

1 SECTION 7. As a condition of the receipt of any funds under
2 this act, the recipient shall:

3 (a) Permit the commonwealth to sue on behalf of such recipient
4 any person potentially liable for damages, including the costs of
5 any activities undertaken by the recipient relative to the removal,
6 containment, encapsulation or other method of control of
7 asbestos found in school buildings within the recipient's control;
8 and

9 (b) Agree to repay to the Commonwealth an amount not to
10 exceed the amount of any funds received by the recipient under
11 this act from the proceeds of any judgment or settlement relative
12 to a suit brought by or on behalf of the recipient for damages,
13 including costs incurred as a result of asbestos control activities
14 described in paragraph (a).

1 SECTION 8. The proceeds from any judgment or settlement
2 relative to a suit brought by the commonwealth in accordance with
3 section seven shall be retained by the commonwealth to the extent
4 such proceeds exceed costs incurred by a school or school district,
5 on whose behalf the suit was brought, in the control of asbestos
6 within its schools, for which the school or school district has
7 received no state or federal funds.

8 The proceeds from any judgment or settlement relative to a suit
9 brought by or on behalf of a school or school district, other than
10 a suit brought by or on behalf of the commonwealth, shall be used
11 to repay the commonwealth for funds received by the school or
12 school district under this act, provided that said proceeds exceed
13 costs incurred by the school or school district in the control of
14 asbestos within its schools for which the school or school district
15 has received no state or federal funds, plus any litigation costs
16 incurred by the school or school district as a result of such suit.

1 SECTION 9. Funds available under this act may be used for
2 state or local matching funds, if such is required in conjunction
3 with any federal program.

1 SECTION 10. The provisions of this act are intended to be
2 severable, and if any provision of this act, or its application to
3 any set of facts or circumstances, shall be held to be

4 unconstitutional by any court of competent jurisdiction, the
5 decision of such court shall not impair all the remaining provisions
6 of this act and the application of said provisions to all other sets
7 of circumstances.

